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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3018 of 2021
and W.M.P.No.3394 of 2021

R.Muthusamy

...Petitioner

Vs

1. The Assistant Director of
Town Panchayats,
Salem Zone, Salem.

2. The Executive Officer,
Kalappanaickenpatti Town Panchayat,
Namakkal District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarid Mandamus, to call for the records relating to the impugned order dated 05.11.2020 made in Na.Ka.No.5/2020 passed by the 2nd respondent and to quash the same in so far as the disallowed portion of the claim is concerned and consequently direct the respondents to waive the lease amount for the period from 01.06.2020 to 30.09.2020 for the inoperated period of sandy of the 2nd respondent Town Panchayat.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.V.Manoharan
Additional Government Pleader

ORDER

The writ on hand has been filed challenging the order dated 05.11.2020 passed by the 2nd respondent and direct the respondents to waive the lease amount for the period from 01.06.2020 to 30.09.2020 for the inoperated period of sandy of the 2nd respondent Town Panchayat.

2.The petitioner participated in the tender and declared as a successful bidder and consequently permission was granted by the second respondent Town Panchayat on 31.03.2020 granting license to collect toll charges commencing from 01.04.2020. The period of lease admittedly expired. The grievances of the writ petitioner is that during the pandemic period and more



specifically, when lockdowns were announced, the petitioner was unable to collect toll charges and therefore, the waiver of lease amount is to be granted till September 2020 and further extension is also to be granted.

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3. This Court is of the considered opinion that the license/permission was granted based on terms and conditions agreed between the parties. Admittedly, the period of license expired. The Government considered the pandemic situation and granted waiver of two months rent to all the lessees/licensees in G.O.(D).No.298 Municipal Administration and Water Supply (MA IV) departed dated 02.09.2020. As per the said Government Order, the benefit has already been granted to the petitioner. Grant of further concession would not arise and the Court cannot extend the period of lease or grant further concession in view of the fact that the terms and conditions are contractual obligations between the parties.

4. Admittedly, the Government considered the grievances and granted two months waiver. If at all, the petitioner is claiming more concession, he is at liberty to approach the Government and the Courts cannot interfere with such decision of granting of waiver of lease amount or license fee. Granting or extension of such concession involves huge monetary implications and therefore, the Government has to take a decision in the interest of public and the Court cannot extend such concession in favour of any person when the terms and conditions already agreed between the parties are binding.

5. In the present case, the petitioner is challenging the order of rejection for grant of waiver of rent, however, this Court is of the considered opinion that if any grievances exist, the parties are at liberty to approach the Government and the Court cannot consider any such extension of lease period or for extension of concession of waiver of rent or otherwise.

6. With these observations, the writ petition stands dismissed. No costs. It is made clear that the petitioner is entitled to get waiver of rent/license fee/lease amount for two months, if eligible as per the Government Order passed in G.O.(D).No.298 Municipal Administration and Water Supply (MA IV) departed dated 02.09.2020. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar



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To

1.The Assistant Director of Town Panchayats,
Salem Zone, Salem.

2.The Executive Officer,
Kalappanaickenpatti Town Panchayat,
Namakkal District.

+lcc to Mr.C.Prabakaran, Advocate SR. No.6689

W.P.No.3018 of 2021

KSM (CO)
PR (21/02/2022)