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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2022

C O R A M

THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.NO.6706 OF 2022
AND W.M.P.NOS.6787 & 6789 OF 2022

S.Sumathy

...Petitioner

Vs

1.The General Manager,
Nilgiris District Co-operative Milk
Producers Union,
Udhagamandalam,
The Nilgiris-District.

2.The Marketing Manager,
Nilgiris District Co-operative Milk
Producers Union,
Udhagamandalam,
The Nilgiris-District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned letter in Na.Ka.No.8121/Vir/Mukavar/2022 dated 04.03.2022 of the 1st respondent and quash the same as null and void and consequently direct the respondents to issue order extending the period of license in favour of the petitioner for a further period of two years to her Aavin Kiosk at Udhagai-Kothagiri Salai, Thummanaty Junction.

For Petitioner : Mr.K.Lavan

For Respondents : Mr.C.Jayaprakash
Government Advocate

ORDER

This Writ Petition is filed challenging the impugned letter of the 1st respondent dated 04.03.2022 and consequently for a direction to the respondents to issue order extending the period of license in favour of the petitioner for a further period of two years to her Aavin Kiosk at Udhagai-Kothagiri Salai, Thummanaty Junction.



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2.By consent of both the learned counsel appearing for the petitioner as well as Mr.C.Jayaprakash, learned Government Advocate, who takes notice for the respondents, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.According to the petitioner, she hails from Scheduled Caste Community. Her husband is drunkard without any employment. She is having two school going children. Her son met with an accident and fractured his legs. Due to unemployment, she finds very difficult to run her family and therefore, she gave a letter to the 1st respondent on 19.06.2017, requesting to permit her to install Aavin Kiosk in Udhagai-Kothagiri Salai, Thummanaty Junction and to sell Aavin milk products. The 1st respondent by letter dated 21.06.2017, directed the petitioner to get No Objection Certificate and permission from the State Highways Department to install Aavin Kiosk and get electricity connection for the same. The petitioner obtained temporary license from the State Highways Department to install Aavin Kiosk and electricity connection in the name of the 1st respondent. By proceedings dated 07.07.2017, the 1st respondent appointed the petitioner as agent to install Aavin Kiosk in Udhagai-Kothagiri Salai, Thummanaty Junction, for a period of two years from 06.07.2017, with conditions to sell 200 litres of Aavin Milk per day and other Aavin products worth Rs.50,000/- per month. The petitioner also paid a sum of Rs.1,00,000/- towards license fee, which is non-refundable and a sum of Rs.1,00,000/- towards refundable security deposit. The license granted to the petitioner was extended by the 1st respondent by proceedings dated 20.12.2019, for further period of two years till 26.12.2021. Due to COVID-19 pandemic situation, there was no sale from March 2020 to January 2022 and the petitioner incurred heavy loss in the business. Now the sale is picking up and she started to repay the debts incurred during COVID-19 period. While so, the petitioner has given representation in the first week of December 2021 for extension of license for another period of two years. Due to the intervention of office bearers of a political party, the 1st respondent refused to renew the petitioner's license and by the impugned order, cancelled the license and directed the petitioner to handover the Aavin Milk parlour. Hence, the petitioner has come out with the present Writ Petition.

4.The learned counsel appearing for the petitioner submitted that inspite of the loss incurred during COVID-19 period, the petitioner carried on business. Unless her license is renewed, the petitioner will be put to irreparable loss and hardship.



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5.Mr.C.Jayaprakash, learned Government Advocate appearing for the respondents submitted that the petitioner's lease period was expired on 31.12.2021 and therefore, the petitioner's license was cancelled. The respondents have decided to conduct public auction for granting license to run the Aavin Milk Parlour.

6.From the impugned order, it is seen that, the 1st respondent has not given any reason to cancel the license of the petitioner except stating that the lease period was expired. The petitioner sought for renewal of license by giving representation in the first week of December 2021. By passing non-speaking order, the 1st respondent has cancelled the license. For the above reasons, the impugned order is set aside and the respondents are directed to consider the representation of the petitioner for renewal of license and pass orders on merits and in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order. Till such order passed on the representation of the petitioner, the respondents are directed to permit the petitioner to carry on her retail business. If any public auction is conducted, the respondents are directed to permit the petitioner to participate in the auction.

7.With the above directions, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

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To:

1.The General Manager,
Nilgiris District Co-operative Milk
Producers Union, Udhagamandalam,
The Nilgiris-District.

2.The Marketing Manager,
Nilgiris Co-operative Milk
Producers Union, Udhagamandalam,
The Nilgiris-District.

+1cc to Mr.K.Lavan, Advocate, Sr.No.19459

+1cc to Mr.C.Jayaprakash, Advocate, Sr.No.20248

W.P.No.6706 of 2022

SVI (CO)

RVM(07/04/2022)