



W.P.No.9396 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.9396 of 2022
and
W.M.P.Nos.9145 & 9150 of 2022

A.Karthikeyan

... Petitioner

Vs.

1. The Regional Director of Municipal Administration,
Vellore.

2. The Commissioner,
Tiruvannamalai Municipality,
Tiruvannamalai.

3. The District Collector,
Tiruvannamalai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the respondents pertaining to the order dated 21.09.2021 of the third respondent bearing Ref.No.Na.Ka.No.1598/2017/A1 and the tender notification dated 06.04.2022 issued by the second respondent bearing Ref.No.Na.Ka.No.877/2022/A1 in respect of item in Sl.No.8 pertaining to public toilet at Jothi Market, Othavadai Street and consequently, direct the second respondent to extend the License in favour of the petitioner for a period of 11 months and to adjust the license amount paid in advance by the petitioner corresponding to the period during which the petitioner was divested of the maintenance of toilet.



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For Petitioner : Mr.L.Poovendra Perumal
for T.Saikrishnan

For Respondents :
For R1 : Mr.M.S.Prem Kumar
Government Advocate

For R2 : Mr.L.P.Maurya
Standing Counsel

ORDER

The petitioner has filed this writ petition for the issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the respondents pertaining to the order dated 21.09.2021 of the third respondent bearing Ref.No.Na.Ka.No.1598/2017/A1 and the tender notification dated 06.04.2022 issued by the second respondent bearing Ref.No.Na.Ka.No.877/2022/A1 in respect of item in Sl.No.8 pertaining to public toilet at Jothi Market, Othavadai Street and consequently, direct the second respondent to extend the License in favour of the petitioner for a period of 11 months and to adjust the license amount paid in advance by the petitioner corresponding to the period during which the petitioner was divested of the maintenance of toilet.



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2. The petitioner was awarded a contract for maintaining the Public Toilet at the Jothi Market in Tiruvannamalai District. The petitioner was required to pay the license amount of Rs.1,90,000/- each and every year and that amount to Rs.3,80,000/-. Subsequently, on the recommendations of the Tourist Development Department, it was decided that the toilet in the Thiruvannamalai Municipality should be renovated as it attracts pilgrims from all over the country and that it would be handed over back to the petitioner after renovation. Within the thirteen months of the contract, the toilet was to be renovated, it was handed over to the respondent.

3. The petitioner appears to have paid a sum of Rs.3,80,000/- at the time of initial award of the contract for the period of three years which was to commence on 31.03.2015 and end on 31.03.2018.

4. The petitioner submits that after handing over the possession of the toilet for renovation it was not returned back to the petitioner. Subsequently, it appears that the authorities concerned took a decision that the toilet should be made freely accessible to public. Therefore, there was no necessity for handing it over to the petitioner.



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5. It is submitted that the respondents have gone back their representation to the petitioner and now decided to option the rights. Though the petitioner was not allowed to maintain the toilet and collect the amount in terms of the earlier tender in which, the petitioner was successful bidder.

6. The petitioner did not claim any compensation in terms of letter dated 24.05.2016 for a period during which the toilet was under renovation/re-construction.

7. Meanwhile, the petitioner had given a representation dated 29.03.2017. Since no orders was passed, the petitioner approached this Court in W.P.No.10111 of 2017 for a Writ of Mandamus to direct the second respondent to hand over the possession of the public toilet at the Jothi Market, Tiruvannamalai to the petitioner as per the order dated 31.03.2015 and the communication dated 24.05.2016 and to extend the license by a period of 11 months and to adjust the license amount paid in advance by the petitioner corresponding to the period during which the petitioner was divested of the maintenance of the toilet towards the license fees payable for the future period.



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8. After deliberations, W.P.No.10111 of 2017 was disposed by an order dated 14.07.2021. The operative portion from the said order reads as under:

“5. Considering the facts and circumstances of the case and in view of the submissions made by the learned counsel appearing for the second respondent, this Court directs the second respondent to consider the petitioner's representation dated 29.03.2017 and pass appropriate orders in accordance with law, as expeditiously as possible, by taking note of the proceedings dated 24.05.2016 issued by the second respondent, within a period of eight weeks from the date of receipt of a copy of this order.”

9. Pursuant to the aforesaid order, the second respondent/The Commissioner has passed the Impugned Order wherein, it has been stated that the request of the petitioner cannot be acceded as it was decided to make a Public Toilet accessible to the public free of cost based on the decision of the District Collector, Tiruvannamalai on 04.04.2018.

10. Meanwhile, the respondents had issued a paper publication on 07.04.2022 calling for a fresh tender for the same toilet which was earlier licensed with the petitioner for the period between 13.03.2015 to 13.03.2018.



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11. It is submitted that the respondents are not justified in allowing the auction in as much as the petitioner was not allowed to maintain the public toilet during the licensed period on account of the decision of renovating and reconstructing the toilet.

12. When the writ petition came up for admission, this Court had declined to grant an interim order. It is noticed that after the writ petition was admitted, the auction was completed on 20.04.2022 and the tender has been awarded to a third party who was the successful bidder.

13. Opposing the prayer, the learned counsel for the second respondent submits that the possession was taken to reacquire his rights by the Municipal Corporation in their proceedings dated 01.04.2022 bearing reference Na.Ka.No.877/2022/A1. It is submitted that the auction was also held on 20.04.2022 and the toilet for which, the rights was given to the successful bidder. The petitioner also participated in the tender. Therefore, there is no merits in the present writ petition.



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14. It appears that the petitioner had also participated in the aforesaid tender. Therefore, there is no merits in the present writ petition as far as the challenge to the decision of the second respondent dated 09.04.2022. At the same time, the amount which was paid by the petitioner which was promised to be returned in terms of the letter dated 24.05.2016 has not been paid back the petitioner. The petitioner was in possession of the public toilet for only the period of thirteen months though the petitioner has paid the amount for thirty six months.

15. Under these circumstances, I direct the respondents to refund the proportionate amount paid by the petitioner for the residual period, the amount which the petitioner would have got as compensation in terms of letter dated 24.05.2016 bearing reference Na.Ka.No.0464/2015/A1 of the second respondent.

16. The learned counsel for the respondent submits that the compensation payable to the petitioner approximately is Rs.1,99,700/-. This amount is directed to be paid together with interest at the bank rate after due verification. Apart from any other compensation which the petitioner would



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have been entitled to in terms of letter dated 24.05.2016. This exercise shall be carried out by the respondent within a period of six months from the date of receipt of a copy of this order.

17. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
rgm



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C.SARAVANAN, J.

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