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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2022

C O R A M

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

W.P.No.9549 of 2022
and W.M.P.No.9289 of 2022

Ramar

...Petitioner

Vs

1.The District Assistant Director,
All Town Panchayat Office,
District Collectorate Campus,
Salem District.

2.The Executive Officer,
Gangavalli Town Panchayat Office,
Salem District.

... Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to direct the 2nd respondent to consider the representation of the petitioner dated 05.04.2022 in accordance with law by granting extension a lease period 2022 - 2023 an equitable consideration Weekly market Gangavalli Town panchayat infavour of the petitioner taking note of non functioning of the weekly market for the period of 21 months out of 24 months during the period of 2020 - 2022, to secure ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondents: Mr.S.Arumugam
Government Advocate

ORDER

The petitioner has come out with the present Writ Petition for a direction to the 2nd respondent to consider the representation of the petitioner dated 05.04.2022.

2.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials on record.



3. By consent of the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents, this Writ Petition is taken up for final disposal at the stage of admission itself.

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4. According to the petitioner, he is the successful bidder for collection of toll in weekly market at Gangavalli, Salem District for the period from 01.04.2020 to 31.03.2021. The petitioner paid all the amounts as per the terms and conditions. The Government announced lockdown and weekly market did not function from 01.04.2020 to 01.10.2020. Thereafter, the petitioner was allowed to operate the market for year 2021-2022. Similarly, lockdown was announced and weekly market did not function from 01.05.2021 to 30.09.2021. The weekly market functioned only three months out of 24 months. In view of the lockdown, people did not come to the weekly market and the petitioner suffered heavy loss. In view of the same, petitioner gave a representation dated 05.04.2022 to the 1st respondent praying for grant of permission to collect toll in weekly market for the year 2022 - 2023 and has come out with the present Writ Petition.

5. The learned counsel appearing for the petitioner referred to the averments in the affidavit and representation of the petitioner dated 05.04.2022 and prayed that the petitioner may be permitted to collect toll in the weekly market for the period from 2022 - 2023 taking note of the non-functioning of the weekly market for 21 months out of 24 months.

6. Mr. S. Arumugam, learned Government Advocate appearing for the respondents submitted that the contention of the petitioner that weekly market functioned only for 3 months out of 24 months during the period 2020 - 2022 is not correct. Even as per the averments in the affidavit and representation of the petitioner dated 05.04.2022, the lockdown was only for 11 months from 01.04.2020 to 30.09.2020 and 01.05.2021 to 30.09.2021 and the weekly market functioned from 01.10.2020 to 31.03.2021 for 6 months and thereafter from 01.04.2021 to 30.04.2021 and again from 01.10.2021 to 31.03.2022. The petitioner has collected toll for 13 months during these two years. The petitioner did not pay the license fee for the period from 01.04.2021 to 31.03.2022. Only when the 2nd respondent demanded the payment, the petitioner sent a representation dated 05.04.2022 and hence, prayed for dismissal of the Writ Petition.

7. From the materials on record, it is seen that the petitioner was successful bidder for collection of toll in the



weekly market for the period from 01.04.2020 to 31.03.2021. From the averments in the affidavit, it is seen that weekly market did not function from 01.04.2020 to 30.09.2020. Similarly, the weekly market did not function from 01.05.2021 to 30.09.2021. A reading of these averments shows that the weekly market functioned nearly 13 months during the years 2020 - 2021 and 2021 - 2022. The contention of the petitioner that weekly market functioned only for three months out of 24 months is contrary to the averments in the affidavit filed in support of the present Writ Petition and representation of the petitioner. Further the contention of the learned Government Advocate appearing for the respondents that the petitioner did not pay the license fee for 01.04.2021 to 31.03.2022 is not denied by the learned counsel appearing for the petitioner.

8.Considering the fact that weekly market did not function for 11 months during these 2 years due to pandemic situation, the 1st respondent is directed to consider the representation of the petitioner dated 05.04.2022 and pass orders on merits and in accordance with law, within a period of four (4) weeks from the date of receipt of a copy of this order.

9.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To:

1.The District Assistant Director,
All Town Panchayat Office,
District Collectorate Campus, Salem District.

2.The Executive Officer,
Gangavalli Town Panchayat Office, Salem District.

+1cc to Mr.R.Sankarasubbu, Advocate Sr.26921
+1cc to the Government Pleader Sr.26966

W.P.No.9549 of 2022

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srg 11/05/2022