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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.9964 of 2022
and W.M.P.Nos.9684 & 9686 of 2022

M.Rajamuthu

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. By its Principal Secretary to the Government,
Municipal Administration & Water Supply Department,
Secretariat,
Chennai 600 009.
- 2.The Director of Town Panchayats,
Government of Tamil Nadu,
Raja Annamalaipuram,
Chennai 600 028.
- 3.The Assistant Director,
Town Panchayats,
Collectorate Complex,
Salem District,
Salem 1.
- 4.The Executive Officer,
Nangavalli Town Panchayat,
Nangavalli 636 454,
Mettur Taluk, Salem District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records of impugned lease auction notice dated 31.03.2022 in Na.Ka.No.9/2022 issued by the 4th respondent and quash the same in so far Serial No.1 with regard to collection Weekly Shandy Toll in the 4th respondent Town Panchayat, consequently, direct the 4th respondent to extend the lease period of the petitioner for compensation based on the application dated 13.01.2022.

For Petitioner : Mr.M.R.Jothimanian
For Respondents: Mr.U.Baranidharan
Additional Government Pleader



O R D E R

This Writ Petition is filed by the petitioner, challenging the impugned lease auction notice of the 4th respondent in so far as Serial No.1 with regard to collection of Weekly Shandy Toll in the 4th respondent Town Panchayat and consequently, direct the 4th respondent to extend the lease period of the petitioner for compensation.

2.The petitioner is a successful bidder for collection of Weekly Market Toll for the period from 01.04.2019 to 31.03.2022 for 3 years. According to the petitioner, inspite of Covid pandemic lock down, he paid the entire amount to the 4th respondent. The Government, taking into account the pandemic situation, issued G.O.(D) No.298 Municipal Administration and Water Supply (MA.IV) Department dated 02.09.2020, waiving payment of lease amount for non-operation period during lock down imposed by the Government. The 2nd respondent, pursuant to the said Government Order, issued proceedings on 23.09.2020, directing all the Additional Directors of the Town Panchayat to waive the license fee for the period of April and May, 2020. But lock down has been continuing till September, 2020 and also the Weekly Market and Sunday prohibition continued. The petitioner was under the impression that the respondents will extend the period of collection for payment of compensation to the petitioner. Hence, he made a representation to the respondents 3 and 4 on 16.12.2021 and 13.01.2022. The said representations are pending for consideration. While so, the 4th respondent issued lease auction notice dated 06.01.2022, fixing the date for auction as 21.01.2022. The petitioner filed W.P.No.1113 of 2022, challenging the said notice in respect of Serial No.1 with regard to collection of Toll for Weekly Market of 4th respondent panchayat and for extension of lease period. The said auction was canceled and postponed by the 4th respondent. Hence, the Writ Petition filed by the petitioner was disposed with liberty to the petitioner to approach the 4th respondent for waiver, as per the Government Order G.O.(D) No.298 Municipal Administration and Water Supply (MA.IV) Department dated 02.09.2020. The petitioner made an application for extension of period in respect of waiver and the said application is pending without any progress till date. Without considering the representation of the petitioner, the 4th respondent has issued impugned auction notice dated 31.03.2022 on 15.04.2022, against the Government Order G.O.(D) No.298 Municipal Administration and Water Supply (MA.IV) Department dated 02.09.2020. Challenging the same, the petitioner has come out with the present Writ Petition.

3.The learned counsel appearing for the petitioner submitted that impugned notice issued by the 4th respondent in so



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far as Serial No.1 with regard to collection of Weekly Market Toll is illegal and arbitrary and prayed for allowing the Writ Petition. He further submitted that the petitioner is prevented from participating in the auction to be conducted today (21.04.2022).

4.Mr.U.Baranidharan, learned Additional Government Pleader appearing for the respondents, on instructions, submitted that petitioner has paid a sum of Rs.20,000/- for participating in the auction, which is to be conducted today (21.04.2022). Along with petitioner, totally 10 persons are before the 4th respondent, participating in the today's auction. The learned Additional Government Pleader, on instructions, further submitted that if the petitioner makes application for refund of the amount, the cheque will be issued to the petitioner calculating the waiver amount for the period from 01.04.2020 to 31.05.2020. The representation of the petitioner was also considered by the 4th respondent and by the proceedings dated 30.03.2022, the petitioner was informed that he is not entitled for any extension of lease period and produced copy of the same to the Court as well as to the learned counsel for petitioner.

5.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the entire materials available on record.

6.From the above materials, it is seen that the petitioner was licensee for collection of Toll in the Weekly Market in the 4th respondent panchayat for the period from 01.04.2019 to 31.03.2022. The license granted to the petitioner expired on 31.03.2022. After expiry of license period, it is open to the 4th respondent to call for the bids to grant license by conducting public auction. The petitioner is challenging the impugned auction notice on the ground that the same is contrary to the Government Order in G.O.(D) No.298 Municipal Administration and Water Supply (MA.IV) Department dated 02.09.2020. The said contention is without merits. As per the Government Order cited above, the Government has granted waiver of lease amounts to licensee only for the months of April and May, 2020. According to the petitioner, the 2nd respondent, by the proceedings dated 23.09.2020, granted the said waiver. The contention of the learned Additional Government Pleader that if the petitioner makes application, the waiver amounts calculated for 2 months will be paid to the petitioner. Once waiver is granted as per G.O.(D) No.298 Municipal Administration and Water Supply (MA.IV) Department dated 02.09.2020 to the petitioner, it is not open to the petitioner to contend that impugned auction notice is contrary to above said G.O. There is no irregularities on the part of the 4th respondent in issuing impugned auction notice.



7.The contention of the learned counsel for the petitioner that the petitioner has paid a sum of Rs.20,000/- is not denied by the learned Additional Government Pleader, who, on instructions, further submitted that the petitioner has not participated in the bid and only 8 members participated in the bid.

8.The 4th respondent is directed to calculate the waiver amounts for two months viz., from 01.04.2020 to 31.05.2020 and return the said amount within two weeks from the date of receipt of a copy of this order to the petitioner. With the above observations, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

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To

- 1.The Principal Secretary to the Government,
State of Tamil Nadu,
Municipal Administration & Water Supply Department,
Secretariat, Chennai 600 009.
- 2.The Director of Town Panchayats,
Government of Tamil Nadu,
Raja Annamalaipuram, Chennai 600 028.
- 3.The Assistant Director,
Town Panchayats,
Collectorate Complex,
Salem District, Salem 1.
- 4.The Executive Officer,
Nangavalli Town Panchayat,
Nangavalli 636 454,
Mettur Taluk, Salem District.

+1cc to Mr.M.R.Jothimanian, Advocate SR.No.27337

+1cc to Government Pleader SR.No.28164

W.P.No.9964 of 2022

SSN(CO)

GMV(24/05/2022)