



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.2037 of 2022

and

W.M.P.[MD]No.1747 of 2022

M.Chinna Meeran

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep.by its Secretary to Government,
Municipal Administration and Water
Supply Department.,
St.George Fort,
Chennai.
2. The District Collector,
Dindigul District,
Dindigul.
3. The Assistant Director/Special Officer,
Town Panchayat,
Dindigul District.
4. The Executive Officer,
Natham Town Panchayat,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned demand notice issued by the 4th respondent in his proceedings in Na.Ka.No.262/2019 dated 05.01.2022 and quash the same as illegal and consequently to direct the respondents to waive the Lease Amount proportionate to the period of lockdown from 22.03.2020 to 30.09.2020 from 02.05.2021 to 24.07.2021 and from 02.01.2022 to till the lock down continues or to extend the lease period corresponding to the non- operative period stated supra.

For Petitioner	: Ms.Jasima Yasmin for M/s.Ajmal Associates
For Respondents	: Mr.B.Saravanan Additional Government Pleader for R1 to R3 Mr.S.P.Maharajan Standing Counsel for R4



O R D E R

This writ petition has been filed challenging the impugned demand made by the fourth respondent dated 05.01.2022.

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2.It is the contention of the petitioner that even though the license was for a period of three years to run a weekly market, the petitioner was unable to run the weekly market for a period of 36 weeks due to the Covid-19 lock down imposed by the Government. According to the petitioner, without committing any default, he has paid the license charges for a period of two years, though he was not able to operate the weekly market for a period of 36 weeks. Hence, according to the petitioner, the impugned demand calling upon the petitioner to pay for the third year will not arise without granting waiver to the petitioner for the period of 36 weeks. In such circumstances, he has filed this writ petition.

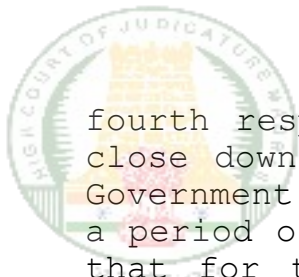
3.Heard Ms.Jasima Yasmin, learned Counsel for the writ petitioner, Mr.B.Saravanan, learned Additional Government Pleader who accepts notice on behalf of respondents 1 to 3 and Mr.S.P.Maharajan, learned Standing Counsel who accepts notice on behalf of the fourth respondent.

4.Learned Standing Counsel for the fourth respondent would submit that the impugned demand has been made only for the third year and not for the first two years of the license which was granted to the petitioner. According to him, for the third year there was no lock down imposed by the Government and the petitioner was free to operate the weekly market and hence, the petitioner is liable to pay the demand which is impugned in this writ petition.

5.However, it is the contention of the learned Counsel for the petitioner that since the petitioner was not able to operate the weekly market as per the license granted to him for a period of 36 weeks in the first two years of the license, the license charges payable by the petitioner for a period of 36 weeks will have to be waived and the balance alone can be claimed by the fourth respondent. However, in the impugned demand the entire license charges payable for the third year has been demanded by the fourth respondent which is arbitrary and illegal.

6.It is also the contention of the learned Counsel for the petitioner that without affording an opportunity of hearing, the impugned demand has been issued by the fourth respondent and principles of natural justice has been violated.

7.Admittedly, for a period of 36 weeks, the petitioner has not been able to operate the weekly market based on the license granted to him. The petitioner has also produced the letters issued by the



fourth respondent along with the writ petition calling upon him to close down the market during the Covid-19 lock down imposed by the Government. The petitioner seeks waiver of the license charges for a period of 36 weeks on account of the lock down and it is his case that for the period of non-operation, out of the license charges payable for the third year, the license charges payable for the period of non-operation will have to be adjusted. Further, as seen from the impugned demand even though a representation has been given by the petitioner on 29.03.2021 seeking for waiver of license charges or for extension of license for a further period of 36 weeks, the said representation has not been considered and even without considering the said representation the impugned demand has been made by the fourth respondent calling upon the petitioner to pay the license charges for the third year of the license. No opportunity of hearing has also been granted to the petitioner as seen from the impugned demand. Therefore, this Court is of the considered view that the impugned demand has to be quashed on account of violation of principles of natural justice and the matter has to be remanded back to the fourth respondent for fresh consideration.

8. Accordingly, the impugned demand made by the fourth respondent dated 05.01.2022 is hereby quashed and the matter is remanded back to the fourth respondent for fresh consideration on merits and in accordance with law after affording a fair opportunity of hearing to the petitioner including granting him the right of personal hearing within a period of twelve [12] weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR

NOTE: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

<https://hcservices.ecourts.gov.in/hcservices/>



To

1. The Secretary to Government,
Government of Tamil Nadu,
Municipal Administration and Water
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2. The District Collector,
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Dindigul.

3. The Assistant Director/Special Officer,
Town Panchayat,
Dindigul District.

4. The Executive Officer,
Natham Town Panchayat,
Dindigul District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-9664[F] dated
03/03/2022)

+1 CC to M/s.S.P.MAHARAJAN, Advocate (SR-9675[F] dated 03/03/2022)

+1 CC to M/s.SPL GP (SR-10216[F] dated 04/03/2022)

ORDER MADE IN

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W.P. [MD]No.2037 of 2022
02.03.2022

KVL/12.03.2022/4P/8C