



W.A.(MD) Nos.438 of 2019 & 639 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.A.(MD) Nos.438 of 2019 & 639 of 2020
and
C.M.P.(MD) Nos.3615 of 2019 & 4023 of 2020**

W.A.(MD) No.438 of 2019:

Muthuraj

... Appellant

-vs-

- 1.The District Collector
Sivagangai District
- 2.The Assistant Director of Panchayat
Sivagangai Division
Sivagangai District
- 3.The Executive Officer
Thiruppuvanam Special
Grade Town Panchayat
Sivagangai District
- 4.P.Thirupathi



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WEB C 5.Murugan

6.K.Mohammed Aris

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 26.02.2019, passed in W.P.(MD) No.1407 of 2019, on the file of this Court.

For Appellant : Mr.J.Anandkumar

For Respondents : Mr.S.P.Maharajan
Special Government Pleader for R1 to R3
Mr.T.Lajapathi Roy for R4
No appearance for R5 & R6

W.A.(MD) No.639 of 2020:

The Executive Officer
Tiruppuvanam Special Grade Town Panchayat
Tiruppuvanam
Sivagangai District

... Appellant

-vs-

1.G.Muthuraj

2.Chandrakala

3.K.Mohamed Aris

... Respondents

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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 06.08.2020, passed in W.P.(MD) No.7635 of 2020, on the file of this Court.

For Appellant : Mr.VR.Shanmuganathan

For Respondents : Mr.J.Anandakumar for R1
No appearance for R2 & R3

COMMON JUDGMENT

[Judgment of the Court was made by R.MAHADEVAN, J.]

W.A.(MD) No.438 of 2019 is preferred by the Contractor – Muthuraj against the order dated 26.02.2019, passed in W.P.(MD) No.1407 of 2019.

2. W.P.(MD) No.1407 of 2019 was filed by the appellant / Muthuraj challenging the cancellation of his licence to run the weekly market. The Writ Court, after hearing both sides, by order dated 26.02.2019, dismissed the writ petition, against which, the appellant / Muthuraj has filed W.A.(MD) No.438 of 2019.



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3. Today, when the matter was taken up for hearing, learned counsel for the appellant / Muthuraj, after some arguments, submitted that W.A.(MD) No.438 of 2019 may be disposed of granting liberty to the appellant / Muthuraj to approach the authority concerned for redressal of his grievance with regard to refund of EMD amount etc.

4. Recording the aforesaid submission, W.A.(MD) No.438 of 2019 is disposed of with liberty to the appellant / Muthuraj to approach the authority concerned for redressal of his grievance with regard to refund of EMD amount etc, within a period of two weeks from the date of receipt of a copy of this order. No costs.

5. W.A.(MD) No.639 of 2020 is preferred by the Executive Officer of Tiruppuvanam Special Grade Town Panchayat, against the order dated 06.08.2020 passed in W.P.(MD) No.7635 of 2020.

6. W.P.(MD) No.7635 of 2020 was filed by the first respondent / Muthuraj against the order dated 07.07.2020, passed by the appellant / Executive Officer of Tiruppuvanam Special Grade Town Panchayat rejecting his request for renewal of his licence to run the weekly market.



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7. The Writ Court, by order dated 06.08.2020, has allowed the writ petition. The relevant portion of the said order is extracted hereunder:

“11.I am of the view that whether it is considered as application for fresh registration or re-registration, inasmuch as the petitioner's request was denied, the principles of natural justice will have to be necessarily invoked. The reason set out in the impugned order is the pendency of W.A(MD).No.438 of 2019. Therefore, this Court will have to see whether the reason set out in the impugned order is sustainable. It is true that the petitioner's licence was cancelled. It is true that this Court declined to interfere with the same. It is equally true that the matter is presently pending before the Hon'ble Division Bench. But the question is whether on this ground that the petitioner can be denied the request for registration or renewal. The learned Special Government Pleader appearing for the Panchayat has not brought to my notice to any provisions which would disable a person whose licence has been cancelled from applying for renewal or registration. If there is any such prohibition either in the conditions of registration or in any G.O or in any law, then the petitioner shall certainly be shown the doors. No such provision have been brought to my notice. In fact realizing this, the Panchayat has now issued the show cause for black listing the petitioner herein.



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12. Since the stand of the respondents cannot be justified on any ground, I have no hesitation to quash the same. The order impugned in the writ petition is quashed. The first respondent is directed to register the petitioner.”

8. A perusal of the order dated 07.07.2020, passed by the appellant / Executive Officer of Tiruppuvanam Special Grade Town Panchayat, impugned in W.P.(MD) No.7635 of 2020, shows that the request of the first respondent / Muthuraj for renewal of his licence was rejected only citing pendency of W.A.(MD) No.438 of 2019. The said approach of the authority concerned has rightly been negated by the Writ Court.

9. As stated above, now, W.A.(MD) No.438 of 2019 is disposed of granting liberty to the appellant / Muthuraj to approach the authority concerned for redressal of his grievance regarding refund of EMD amount etc., and therefore, it is for the authority concerned to consider the application of the first respondent / Muthuraj for renewal of his licence to run the weekly market, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of the application.



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10. Accordingly, W.A.(MD) No.639 of 2020 is disposed of. No costs.

Consequently, connected miscellaneous petitions, in both appeals, are closed.

[R.M.D., J.] [J.S.N.P., J.]

28.11.2022

Index : Yes / No

Internet : Yes / No

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To:

- 1.The District Collector,
Sivagangai District.
- 2.The Assistant Director of Panchayat,
Sivagangai Division,
Sivagangai District.
- 3.The Executive Officer,
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