

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 06.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.13266 of 2022

V.Neelakandaprasad

..Petitioner

Vs

1.The District Collector,
Kanyakumari District,
at Nagercoil.

2.The Assistant Director(Town Panchayats),
Nagercoil,
Kanyakumari District.

3.The Executive Officer,
Thingalnagar Selection Grade Town Panchayat,
Kanyakumari District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the third respondent to put up the roof of the cycle stand and handover the possession of the cycle stand situated at Thingalnagar Market, Kanyakumari District by considering the Petitioner's representation dated 23.5.2022.

For Petitioner :Mr.C.Mayilvahana Rajendran

For Respondents :Mr.D.Sadiq Raja
1 and 2 Additional Govt.Pleader

For Respondent-3 :Mr.S.Shaji Bino
Special Government Pleader

ORDER

The Petitioner has filed this Writ Petition seeking a direction to the third respondent to put up the roof of the cycle stand and handover the possession of the cycle stand situated at Thingalnagar Market, Kanyakumari District by considering the Petitioner's representation dated 23.5.2022.

2.Heard the learned counsel appearing on either side and perused the materials placed before this court.

3.The case of the Petitioner is that he is a registered contractor of the third respondent town panchayat and had also participated in the tender of the third respondent Panchayat and other panchayats. The Petitioner had participated in the auction conducted by the Thingal nagar Selection Grade Town Panchayat on 24.06.2021 in Na.Ka.No.50/2021/A2. As per the tender for running a cycle stand, Rs.2 lakhs has to be deposited as initial payment/deposit and the contract period is for three years from the date of auction till 31.3.2024.The Petitioner had participated in the auction process and he was the highest bidder in the tender acution and had deposited a sum of Rs.2,54,880/-. The learned counsel would further submit that he was not issued with any order confirming the auction for the cycle stand and the third respondent told that after putting up the roof the same will be handed over to him. It is

further submitted that the third respondent ought to have put up the roof for the cycle stand and hand over the possession and the inaction on the part of the third respondent, put the Petitioner on great hardship and loss. Hence the Petitioner has come forward with the present Writ Petition for the relief stated supra.

4.The learned Special Government Pleader appearing for the third respondent would submit that by order, dated 17.8.2021 in Na.KaNo. 50/2021, Aa1, the Petitioner has paid a sum of Rs.2,54,800/- in receipt No.834, dated 14.7.2021. As per G.O.Ms.No.181, dated 19.09.2008, it was stated that as per the tender auction in the year 2021-22, the lease amount will be increased by 5% during the year 2022-23 and further 5% increase during the year 2023-24. It was further stated that if there is any violation in collecting the fees the said licence will be cancelled and that the Panchayat will not take any steps to erect the roof and the contractor has to take steps to erect the roof for the cycle stand. The above said order, dated 17.8.2021 was communicated to the Petitioner by marking a copy to him.

5.The learned counsel for the Petitioner submits that he was aware of the above said proceedings but he was not issued with the said letter. This Court is not inclined to accept the said stand taken by the Petitioner and this Court is of the view that the Petitioner is aware of the same and

without there being any order, taking the cycle stand for lease will not be possible, Hence, no order can be passed in favour of the Petitioner and as such the prayer sought for by the Petitioner cannot be granted as devoid of merits and the submission made by the Petitioner is rejected. It is now stated that the Petitioner himself has put up the roof at his own cost and prays that the third respondent panchayat may be directed to calculate the expenses occurred from the lease amount and repay to him however, the said submission is not acceptable by the Govt Pleader, as per the conditions prescribed therein.

6. For the reasons stated above, the Writ Petition stands dismissed. No costs. In respect of the repayment of expenses made by him, it is open to the Petitioner to approach the authorities concerned, if it has been permitted under the terms and conditions of the lease.

06.09.2022

Index : Yes/No
 Internet: Yes/No
 vsn

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V.BHAVANI SUBBAROYAN,J

vsn

ORDER MADE IN

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