



WEB COPY



W.P.No.2695 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

W.P.No.2695 of 2023
and WMP. Nos.2798 & 2799 of 2023

P.S.Palanisamy

... Petitioner

Versus

The Commissioner,
Kangayam Municipality,
Kangayam, Tiruppur District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his proceedings in Na.Ka.No.2071/2016/A2, dated 25.01.2023 and quash the same and consequently, directing the respondent to extend the lease period from 01.04.2023 to 31.03.2024 to the petitioner for right to collect fee / charge license for kangayam Monday Weekly Market.

For Petitioner

: Mr.C.Prakasam

For Respondent

: Mr.S.Thenral

For M/s.C.S. Associates

ORDER

This writ petition has been filed seeking to quash the impugned order passed by the respondent, dated 25.01.2023 and consequently, directing the



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respondent to extend the lease period from 01.04.2023 to 31.03.2024 to the petitioner for right to collect fee / charge license for kangayam Monday Weekly Market.

2. It is the case of the writ petitioner that the respondent called for tenders for lease out the weekly market for right to collect the entrance fees and collecting charges from temporary shops and vehicles for three years. The petitioner has participated in the tender and he was the successful bidder and the respondent has given license to the petitioner to collect the entrance fees and collecting charges from temporary shops for the weekly market for three years I.e. from 01.04.2020 to 31.03.2022. Due to Covid-19 pandemic affected in Tamil Nadu, the Government had issued instructions to close the market and shops to avoid spread over the infection among the public. As per the respondent communication dated 19.03.2020, the respondent Municipality closed the weekly market and hence, from 19.03.2020, the petitioner could not collect any charges and the said lockdown continuously extended. Therefore, the petitioner met with heavy loss. In this connection, the petitioner made a representation to the respondent to extend the lease period for another one year from 01.04.2023 to 31.03.2024 and the petitioner expressed his willingness to pay 5% enhanced



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lease amount. The respondent has not considered the same and passed the impugned order dated 25.01.2023 stating that as per the report of the Revenue Inspector that the weekly market was closed for eight months and the Government waived two months lease amount. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that the respondent failed to consider that when the petitioner made request to meet out such loss, the lease period ought to have extended for another one year, but the same was not considered and passed the present impugned order, which is illegal and arbitrary. This Court may quash the impugned order and direct the respondent to consider the petitioner's request to extend the lease period for another one year with 5% enhanced existing auction amount.

4. The counter affidavit has been filed by the respondent stating that due to Covid-19 pandemic situation, as per the Government instructions, the Municipality has closed the weekly market from 19.03.2020 and due to lockdown, continuously extended the weekly market closed from 01.04.2020 and the weekly market was opened on 30.11.2020. Further it is stated that if the



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petitioner give undertaking that he will not claim lockdown loss to the tune of Rs.6,23,676/- then the extension of one year lease period by 5% enhancement of the 3rd year lease amount will be considered and moreover, they should not claim further more any extension.

5. This Court is of the view that though as a matter of right the petitioner cannot claim the loss said to have been sustained by him, the learned counsel for the petitioner submitted that the petitioner is ready to pay 5% enhancement of the 3rd year lease amount, as pleaded in the counter. Such view of the matter, if the petitioner gives undertaking before the authorities, the authorities shall consider the same and pass appropriate orders for extending the lease for a period of one year on merits and in accordance with law within a period of one month from the date of receipt of a copy of this order.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

21.02.2023

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To

The Commissioner,
Kangayam Municipality,
Kangayam, Tiruppur District.



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N.SATHISH KUMAR, J.

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