



W.P.No.8322 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.8322 of 2023

M.Devendran

... Petitioner

-Vs-

1.The District Collector

Salem District Salem-636 001.

2.The Assistant Director of

Village Panchayats

Collectorate Campus

Salem - 636 001.

3.The Panchayat President

Thalaivasal Panchayat

Thalaivasal Panchayat Union

Thalaivasal Taluk

Salem District.

4.The Block Development Officer

Thalaivasal Panchayat Union

Salem District.

.. Respondents



W.P.No.8322 of 2023

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order dated 11.01.2023 passed by the 4th respondent and which is served on 26.01.2023 and quash the same and consequently to direct the 3rd and 4th respondent to grant extension of renewal of lease rights to the petitioner with respect to Thalaivasal Daily Vegetable Market situated at Thalaivasal Post, Thalaivasal Taluk, Salem District for the year 2023-2024 in view of G.O.Ms. No.277 Rural Development (C-4) Department dated 22.11.2001, which is passed in the Tamil Nadu Panchayats (Procedure for conducting public auction of leases and sales in Panchayat) Rules, 2001.

For Petitioner Mr.P.M.Subramaniam
Senior Cousnel
for Mrs.S.Vinodha

For Respondents Mr.S.Arumugam
Government Advocate
for R1, R2

Mr.C.Harsha
Additional Government Pleader
for R3, R4

ORDER

This writ petition has been filed challenging the impugned communication dated 11.01.2023, made by the 3rd respondent to the petitioner informing the petitioner that the renewal as sought for by the petitioner cannot be granted and that a public auction will be held for grant of lease with respect to Thalaivasal Daily Vegetable Market. The petitioner has



W.P.No.8322 of 2023

also sought for a consequential direction seeking for renewal of his lease rights with respect to the daily vegetable market.

2.The case of the petitioner is that he participated in the auction that was conducted by the 4th respondent and was given the lease rights of Thalaivasal Daily Vegetable Market, wherein, the petitioner can collect the toll. This was for the period from 01.04.2022 to 31.3.2023.

3.The further case of the petitioner is that he was seeking for the renewal of the lease in his favour in line with Rule 23 of the Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Leases and Sales in Panchayats) Rules, 2001. The petitioner made a representation in this regard on 07.12.2002, even though the lease period of the petitioner was to expire only on 31.03.2023. Thereby, the petitioner made the request three months before the date of the expiry of the lease period.

4.The grievance of the petitioner is that the 4th respondent even without considering the request made by the petitioner and without properly exercising the discretion vested under the relevant Rules, mechanically rejected the request made by the petitioner for renewal through the impugned letter dated 11.01.2023. Aggrieved by the same, the present writ petition has been filed before this Court.



W.P.No.8322 of 2023

WEB COPY

5.The 3rd respondent has filed a counter affidavit. The 3rd respondent has taken a stand that the renewal was placed in the meeting that was held on 29.03.2023 and out of 11 members 10 members resolved that a fresh public auction must be conducted to grant the tender for the collection of the toll in the daily and weekly market at Thalaivasal. That apart, it is stated that none of the members voted in favour of granting any extension of lease in favour of the petitioner. In view of the same, the petitioner was informed through the impugned letter that the request made by the petitioner for renewal is not acceptable and that a decision has been taken to conduct a fresh auction.

6.The learned Senior Counsel appearing on behalf of the petitioner submitted that the 4th respondent had extended the lease rights of the previous lease holder for the years 2019-2020 and 2020-2021 and hence, while exercising such discretion, the 4th respondent must be consistent and he cannot keep exercising such discretion arbitrarily. The learned Senior Counsel submitted that the toll that was collected during the year 2021-2022 was a sum of Rs.43,09,539/- and whereas the petitioner was able to collect a sum of Rs.95,00,000/- during the period 2022-2023. Hence, it was submitted that the 4th respondent should have taken into consideration this important factor and should have granted renewal of lease. The learned Senior Counsel also brought to the notice of this Court Rule 23 of the relevant Rules and submitted that the representation seeking for renewal was made within the time stipulated by the Rule and the petitioner was also willing to pay 15% more than the existing lease amount. The learned Senior Counsel concluded his submissions by stating that



W.P.No.8322 of 2023

there was a motive behind not granting renewal in favour of the petitioner since the petitioner had participated during the Panchayat Elections and this was not to the liking of the elected Panchayat President.

7.Per contra, the learned counsel appearing on behalf of the 3rd respondent submitted that the discretion as was sought to be projected by the learned Senior Counsel appearing for the petitioner is not the individual discretion of the 4th respondent and it is a collective decision that is taken by the members. Hence, the request made by the petitioner seeking for renewal was placed before the meeting that was conducted on 29.03.2023 and it was unanimously decided that the Panchayat will go for a fresh auction and no one voted for granting renewal. This collective decision was conveyed by the 4th respondent to the petitioner and hence, there is no question of any arbitrariness on the part of the 4th respondent. The learned counsel further submitted that the petitioner cannot seek for renewal of lease as a matter of right and it will always be open to the petitioner to participate in the public auction and submit his bid.

8.This Court has carefully considered the submissions made on either side and the materials available on record.

9.There is no dispute with regard to the fact that the petitioner was granted lease for one year i.e., from 1.4.2022 - 31.3.2023. The petitioner was seeking for extension of renewal of lease under Rule 23 of the above said Rules which provides for renewal of lease.



W.P.No.8322 of 2023

WEB COPY

For that purpose, it also provides for the procedure to be followed. As per that procedure, the request made for renewal of the lease must be placed before the members of the Panchayat and it is left open to the decision taken by the members to either renew the lease or to go for a fresh public auction. It is therefore clear from the Rules that it is not an individual decision taken by the 3rd respondent and on the other hand, it is a collective decision taken by the members of the Panchayat. It is apparent from the counter affidavit filed by the 3rd respondent that almost all the members resolved to conduct the public auction and no one voted in favour of the grant of extension of lease in favour of the petitioner. In view of the same, it cannot be held that the communication that was made by the 4th respondent to the petitioner suffers from any arbitrariness.

10.The period has already come to an end on 31.03.2023. The learned Senior counsel appearing on behalf of the petitioner also submitted that the petitioner was not permitted to collect the toll beyond the lease period. Under such circumstances, it will be fit and proper for the 3rd respondent, to proceed further to go for a public auction for the purposes of giving the lease right with respect to the collection of toll in Thalaivasal Vegetable Market. This process shall be commenced immediately by the 3rd respondent and it shall be completed within a period of **four weeks**. It goes without saying that it will always be left open to the petitioner to participate in the public auction and submit his bid.



W.P.No.8322 of 2023

WEB COPY

11. In the light of the above discussion, this Court does not find any ground to interfere with the impugned communication of the 4th respondent dated 11.01.2023 and as a result, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

25.04.2023
2/2

KP

Internet : Yes/No

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1. The District Collector
Salem District Salem-636 001.

2. The Assistant Director of
Village Panchayats
Collectorate Campus
Salem - 636 001.

3. The Panchayat President
Thalaivasal Panchayat
Thalaivasal Panchayat Union
Thalaivasal Taluk
Salem District.

4. The Block Development Officer
Thalaivasal Panchayat Union
Salem District.



WEB COPY



W.P.No.8322 of 2023

N.ANAND VENKATESH, J.

KP

W.P.No.8322 of 2023

25.04.2023
2/2