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W.P.No.18375 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.08.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.18375 of 2023
and W.M.P.Nos.17579 & 17582 of 2023

R.Sasikumar

...Petitioner

Vs.

1.The District Collector,
O/o. District Collector,
Jayankondam Road,
Ariyalur – 621 704.

2.The Commissioner,
O/o. Municipal Commissioner,
Jayankondam Road,
Ariyalur – 621 704.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the record in relation to order in Na.Ka.No.0001/A1/2021 dated 17.03.2023 quash the same issued by the 2nd respondent by cancelling the lease made on 10.03.2021 and further direct the 2nd respondent to renew lease period for the period from 2023 to 2024.



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For Petitioner : Mr.P.Tamilavel
For Respondent 1 : Mr.N.Naveen Kumar
Government Advocate
For Respondent 2 : No appearance

ORDER

The writ petition is filed challenging the order passed by the second respondent cancelling the license granted to the petitioner, to collect toll fee in the weekly sandy for the period 01.04.2021 to 31.03.2024.

2.The petitioner herein participated in the tender called for by the second respondent on 16.02.2021, to collect toll fee from the persons participating in the weekly sandy conducted by the second respondent Municipality. The petitioner was declared as successful bidder for a sum of Rs.12,70,000/-. As per the directions of the second respondent dated 05.03.2021, the petitioner paid the entire bid amount together with Service tax, Income tax and Profession Tax, totally a sum of Rs.15,26,500/-. Thereafter, the second respondent by order dated 10.03.2021, granted license to the petitioner to collect toll fee in the weekly sandy for the period from 01.04.2021 to



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31.03.2024. In these circumstances, the second respondent passed an impugned order dated 17.03.2023, cancelling the license granted to the petitioner mainly on the ground that the second respondent decided to construct a new building for conducting weekly sandy and the land allocated for conducting weekly sandy is required for that purpose.

3.The learned counsel appearing for the petitioner assailed the impugned order on the ground that the petitioner was not issued with notice affording him with opportunity to put forth his objections before passing the impugned order of cancellation. It is also stated by the petitioner that even assuming the second respondent proposed to construct a permanent structure in the place allocated for conducting weekly sandy, the second respondent, could have permitted the petitioner to collect toll fee in the weekly sandy conducted in alternative place. It is also stated by the petitioner that alternative places are available at Vannankuttai, Kamarajar Thidal (near State Bank) Ulzavar Sandhai, where the weekly sandy can be conducted.

4.The second respondent has already filed his counter. When the writ petition was taken up for hearing on 07.08.2023, there was no representation



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for the second respondent. Therefore, in order to give an opportunity to the second respondent, the writ petition is posted under the caption for passing orders today (18.08.2023). Even today, there is no representation for the second respondent. Therefore, this Court proceeds to dispose of the writ petition by considering the counter filed by the second respondent.

5. In the counter affidavit filed by the second respondent, it is stated by him that as per the tender conditions the license granted to the petitioner can be cancelled at any time even during the middle of the lease period. This Court perused the order passed by the second respondent dated 10.03.2021, in Na.Ka.No.0001/2021/A1, whereunder the license was granted to the petitioner to collect toll fee in the weekly sandy and there is no condition mentioned in the said order that the license granted to the petitioner can be cancelled before the expiry of the term without any reasons. The Condition No.8 stipulated in the order only says if the petitioner commits any breach of conditions, the license will be cancelled without any notice. It is not the case of the second respondent that the petitioner has committed any breach of condition stipulated in the order granting license.



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6.A perusal of the impugned order further would suggest that the notice was issued to the petitioner on 10.01.2023, regarding the requirement of the second respondent and the petitioner was also directed to hand over the land in which the weekly sandy had been conducted hitherto. In response to that notice, the petitioner submitted a representation requesting the second respondent to provide an alternative place for conducting the weekly sandy. However, his representation was rejected on the ground that the second respondent Municipality had no alternative place for conducting the weekly sandy. Hence submission of counsel for petitioner as if no notice was given to him before impugned order falls to ground.

7.It is seen from the impugned order that the petitioner was granted license to collect toll fee from the participants in the weekly sandy for the period 01.04.2021 to 31.03.2024. However, his license was prematurely cancelled by order dated 17.03.2023. In such circumstances, the second respondent is not entitled to retain the entire bid amount deposited by the petitioner. When the license period is reduced by no fault of the petitioner, the petitioner is entitled to get back the proportionate bid amount. However, in the impugned order, the second respondent has not stated anything regarding



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refund of the bid amount. Therefore, the second respondent is directed to consider the request of the petitioner. It is asserted by the petitioner that alternative places are available in the second respondent Municipality in places like Vannankuttai, Kamarajar Thidal (near State Bank) Ulzavar Sandhai. It is also stated by the learned counsel for the petitioner that weekly sandy is being conducted by the second respondent in Ulzavar Sandhai. In such circumstances, the second respondent is directed to either provide alternate site for conducting weekly sandy for the period of one year and permit the petitioner to collect toll fee for the remaining period or otherwise, the second respondent shall refund the proportionate bid amount deposited by the petitioner by taking into consideration that the license period is reduce by one year.

8. With these directions, the writ petition stands disposed of. No cost. Consequently, connected miscellaneous petitions are closed.

18.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

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S.SOUNTHAR, J.
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