



W.P.(MD) No.12484 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 25.05.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.(MD) No.12484 of 2023
and
W.M.P(MD) No.10562 of 2023

T.Rajakumar

...Petitioner

Vs

1. The District Collector,
Kanyakumari District, Office At,
Ramavarmapuram, K.P. Road, Nagercoil..
2. The Assistant Director of Town Panchayat,
Office at Collectorate Campus,
Ramavarmapuram, Nagercoil,
Kanyakumari District.
3. The Executive Officer,
Kaliyakaviai Selection Grade Panchayat,
Kaliyakavilai, Kaliyakavilai Post,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records



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pertaining to the impugned order passed by the 3rd respondent herein in Na.Ka.No. 188/2022/A1 dated 17.05.2023 and quash the same as illegal and further direct the respondents herein to permit the petitioner to continue the license for the entire 3 years period till 31.03.2025.

For Petitioner : Mr.K.P.Krishnadoss

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

By consent of both the parties, this Writ Petition is taken up for final disposal.

2. The petitioner herein was granted a licence for collection of user fee for the public toilet in Kaliyakavilai Fish Market under the third respondent Panchayat for a period commencing from 2022 – 2023 to 2024 – 2025. On allegations that the petitioner is collecting excess fee of Rs.5/- and Rs.10/- instead of Rs.2/- and that the toilet has not been maintained properly and further that the petitioner has locked up the premises thereby, compelling the public to use the open space as a toilet, the licence came to be cancelled on 17.05.2023. Among other grounds



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raised, the learned counsel submitted that the prior to the cancellation of licence, no show cause notice was issued for the proposed cancellation.

3. A perusal of the impugned cancellation order would also reveal that the notice dated 11.02.2023 was issued only for purpose of pointing out that the toilet was not maintained in a proper manner. No reference has been made to any show cause notice for cancellation of the lease deed itself. It is needless to point out that when the petitioner had entered upon a valid licence agreement with the third respondent herein, there is a duty cast upon the third respondent to put the petitioner on notice with regard to the proposed action of cancellation. Since the reasons assigned in the cancellation order seems to be very serious in nature and could amount to violation of the lease conditions, this Court is of the view that the present impugned order could be treated as a show cause notice with a consequential direction to the petitioner to render his explanation. Accordingly, the impugned notice in Na.Ka.No.188/2022/A1 dated 17.05.2023 is directed to be treated as a show cause notice issued to the petitioner herein. The petitioner shall render his explanation with regard to the averments made in the impugned order, within a period of fifteen



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days from the date of receipt of a copy of this order. On receipt of such explanation, the third respondent herein shall consider the petitioner's explanation and after rendering findings, pass appropriate orders in accordance with law within a period of two weeks from the date of receipt of such explanation. Till such time, there shall be an order of *status quo* with regard to the functioning of the public toilet.

4. With the above directions, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

25.05.2023

Index: Yes/No
Speaking order/Non-speaking order
pkn



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M.S.RAMESH,J.

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To

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