



W.P(MD)Nso.25835 to 25838 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.25835 to 25838 of 2023

and

W.M.P(MD)Nos.22154, 22156, 22157 & 22160 of 2023

W.P(MD)No.25835 of 2023:

P.Vimala Packiyathai

... Petitioner

Vs.

1.The State represented by
The Secretary,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai.

2.The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st and 2nd respondents to allocate a shop in the commercial complex newly constructed within the precincts of Anna Bus Stand (Old Bus Stand),



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Thoothukudi in the light of the order passed by this Court in
WP(MD).No.24461 of 2018 dated 28.01.2019 forthwith.

For Petitioner : Mr.R.Anand

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R.1

Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.N.Anand Kumar for R.2

W.P(MD)No.25836 of 2023:

S.Ponraj

... Petitioner

Vs.

1.The State represented by
The Secretary,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai.

2.The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, directing the 1st and 2nd
respondents to allocate a shop in the commercial complex newly



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constructed within the precincts of Anna Bus Stand (Old Bus Stand),
Thoothukudi in the light of the order passed by this Court in
WP(MD).No.24461 of 2018 dated 28.01.2019 forthwith.

For Petitioner : Mr.R.Anand

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R.1

Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.N.Anand Kumar for R.2

W.P(MD)No.25837 of 2023:

C.Rathi Gunam

... Petitioner

Vs.

1.The State represented by
The Secretary,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai.

2.The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, directing the 1st and 2nd



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respondents to allocate a shop in the commercial complex newly constructed within the precincts of Anna Bus Stand (Old Bus Stand), Thoothukudi in the light of the order passed by this Court in WP(MD).No.24461 of 2018 dated 28.01.2019 forthwith.

For Petitioner : Mr.R.Anand

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R.1

Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.N.Anand Kumar for R.2

W.P(MD)No.25838 of 2023:

J.Madhan

... Petitioner

Vs.

1.The State represented by
The Secretary,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai.

2.The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st and 2nd respondents to allocate a shop in the commercial complex newly constructed within the precincts of Anna Bus Stand (Old Bus Stand), Thoothukudi in the light of the order passed by this Court in WP(MD).No.24461 of 2018 dated 28.01.2019 forthwith.

For Petitioner : Mr.R.Anand

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R.1

Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.N.Anand Kumar for R.2

COMMON ORDER

Heard the learned counsel appearing for the writ petitioners, the learned Special Government Pleader appearing for the first respondent and the learned Additional Advocate General assisted by the learned counsel appearing for the second respondent.

2.The writ petitioners were licensees of the shops belonging to Thoothukudi Corporation in the old Anna Bus Stand premises. The local body wanted to construct a new Bus Stand complex. They called upon

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the existing licensees to vacate. The Association representing the licensees filed W.P(MD)No.24461 of 2018. The writ petition was disposed of on 28.01.2019 by recording the undertaking given by the Corporation Commissioner. The undertaking was in the following terms:

“11. The Commissioner, Municipal Corporation, Tuticorin, has given an affidavit that the entire work would be completed, within a period of 18 months. The Commissioner should ensure that the work is given to the Contractor, as expeditiously as possible and the entire construction is completed, within a period of 18 months from today. The existing licensees, who are eligible for allotment, should be given allotment of premises immediately after reconstruction by taking lots. There would not be any preference to the existing licensees for allotment of a particular shop on the ground that at present, they are doing business on the front side of the bus stand. The allotment would be made strictly by taking lots. The area of the shop would be decided by the Commissioner in accordance with the plan prepared for construction of the bus stand.

12....

13. The Commissioner undertakes that the entire process of awarding contract and handing over of the site



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to the contractors shall be completed by 28 February, 2019 and the construction shall be completed within a period of 18 months from that date. The Commissioner must adhere to the undertaking affidavit given before this Court for completion of construction and allotment of shops to the existing eligible licensees immediately after such construction.”

The petitioners now allege that by holding auction for the newly constructed shops, the undertaking is being breached. Challenging the action of the Municipal Corporation, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4.The learned Additional Advocate General submitted that the Corporation has no intention to breach the undertaking given before the Hon'ble Division Bench. He pointed out that in view of the said



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undertaking, the only right which the petitioners have is the guaranteed allotment. But the terms of allotment have not been specified in the orders passed by the Hon'ble Division Bench. In the very nature of things, the rental aspect could not have been foreseen or fixed in advance. He drew my attention to Rule 316 of the Tamil Nadu Urban Local Bodies Rules, 2023. It reads as follows :

“316.Licensing or leasing of Immovable Properties.—

(1)The Municipal Council may grant licence or lease to any person for use and occupation of any land or building belonging to the municipality for a period of three years.

(2)After the completion of the period prescribed in sub-rule (1), no extension or renewal of the same lease shall be permitted and any applications for the same shall be considered afresh in accordance with provisions of the Act and Rules.

(3)The licence fee or lease rent for lands let out for public purpose or for use by Central Government or State Government Departments or Public Sector Undertakings shall be based on the guideline value of the land as per the following table:—



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THE TABLE

Usage	Lease Rate as percentage of Guideline Value
(1)	(2)
Charitable and Religious	0.5%
Private schools	3%
Aided schools where percentage of students in aided section is less than 50% of total school strength	1.5%
Aided school, where the percentage of students in the aided section is more than 50% of total school strength. (In this category, aided school alone should be functioning in the premises leased and no other educational or related activities should be undertaken)	0.5%
Lease to Central Government or State Government departments or Public Sector Undertakings other than Metro Rail Organizations	3%
Metro Rail Organizations	1%

(4) The licence fee or lease rent for buildings let out for public purpose shall be based on the Annual Rental Value derived for the purpose of calculation of Property Tax.

(5) Licence or lease for land and buildings let out for commercial or residential purpose including shopping complexes or public markets belonging to the municipality shall be effected by public auction-cum-tender which shall be conducted by the Commissioner or by a person duly authorized in this behalf.



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(6) The auction floor price shall be fixed as below:

Category	Auction Floor Price
(1)	(2)
Land - Commercial	3% of Guideline Value of Land
Land – Residential	1.5% of Guideline value of land
Land – Agricultural	0.5% of Guideline Value of Land
Building – Commercial other than shopping complexes or public markets	Commercial Annual Rental Value as decided for Property Tax assessments
Building – Shopping complexes or public markets	Based on the actual rental value prevailing in the locality with such variations based on location of the shop in the market, demand, current vacancy levels, infrastructure facilities available, as may be decided by the council.
Building - Residential	Residential Annual Rental Value as decided for Property Tax assessments

(7)The bids at the auction-cum-tender shall be placed by the Commissioner before the council or a committee to accept the highest bid or bids.

(8)A person occupying a municipal land or building shall be liable to payment of a damage fee for use and occupation at the same rate as the licence fee or lease rent, if the occupation is without a licence or lease or continues beyond the period of the said licence or lease until the person is evicted from such illegal occupation: Provided that mere payment of damage fee shall not entitle such illegal occupant to any rights over the said land or building.



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(9)Auction-cum-tender.– The Commissioner or a person duly authorized by him should conduct the auction-cum-tender and shall not permit any person who fails to deposit as security such sum as may be specified in the preliminary notice to bid at the auction.

(10)The Commissioner shall, after the auction-cum-tender is completed, place before the Council, a list of bids at the auction-cum-tender and the highest bidder shall be granted the licence or lease: Provided that if the highest bid has to be rejected for any reason, the reasons for the same shall be recorded in writing.

(11)(a) In case of auction for licence of rental shops belonging to the municipality, the Council may, on application by the concerned person, give preference to,–

(i)In case of demolition and reconstruction, existing licensees of the demolished shopping complex;

(ii)Licensees of another shopping complex belonging to the municipality which was demolished or diverted to some other use by the municipality;

(iii)Commercial shop owners in lands acquired by the municipality; (b) (i) Any person claiming such preference shall be required to match the highest bid price and submit necessary documents proving eligibility for preference; (ii) The order of preference shall be in the same order as in clause (a) and within each category, the preference shall be in order of seniority within that category with respect to the month and year of demolition or acquisition; (iii) Preference in allotment shall not be applicable to



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legal heirs of such persons if the said person is deceased; (c)

Five per cent of the shops may be allotted to persons with disability, willing to match the highest bid.

(12)Immediately after the auction has been confirmed, the intimation about the acceptance shall be communicated to the bidder to pay the entire amount of the first installment within the date stipulated and the necessary particulars shall be entered in the Demand Register.

(13)The licensee or lessee shall enter into an agreement with the municipality, within one week of confirmation of auction-cum-tender by the council.”

5.The learned Additional Advocate General submitted that only if public auction is conducted, the current rental market value will be known. He further stated that if the petitioners are willing to match the highest offer to be fetched in the public auction, the petitioners will be allotted the shop they require. If two of the old licensees aspire for a single shop, the successful person will be decided by lot method.

6.I am more than satisfied that the offer made by the local body through the learned Additional Advocate General more than satisfies that the undertaking given before the Hon'ble Division Bench.



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7.Directing the second respondent to adhere to the submission made before me by the learned Additional Advocate General, these writ petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

- 1.The Secretary, Municipal Administration and Water Supply Department, Secretariat, Chennai.
- 2.The Commissioner, Thoothukudi City Municipal Corporation, Thoothukudi.



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G.R.SWAMINATHAN, J.

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WMP(MD)Nos.22154, 22156, 22157 &
22160 of 2023

20.10.2023