



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.27495 of 2023 AND

W.M.P.(MD)No.23614 of 2023

K.S.Karthik

... Petitioner

Vs.

1. The Dean,
Govt. Rajaji Hospital,
Panangal Road, Madurai – 625 020.

2. The Assistant Executive Engineer,
Public Works Department,
Building (Maintenance) Sub Division/
Medical Services,
Tallakulam, Madurai – 625 002.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the first respondent's letter dated 01.11.2023 in Na.Ka. No.14256/ThiVa1/2020 and his subsequent tender cum auction notification dated 01.11.2023 to be held on 22.11.2023 are null and void and further directing the first respondent to consider the petitioner's representation dated 18.09.2023.

For Petitioner : Mr.A.Jeyaram

For Respondents : Mr.M.Prakash,
Additional Government Pleader.

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ORDER

Heard both sides.

2. The petitioner was granted license to run a canteen in the premises of Government Rajaji Hospital, Madurai. The license period commenced on 24.12.2020. It was for a period of three years. The respondents propose to hold tender-cum-auction today for issuance of license to next three years. The petitioner challenges the same on various grounds. Two contentions have been primarily focussed by the learned counsel appearing for the petitioner. The first contention is that on account of Covid and other reasons, the petitioner was not able to run the canteen for a period close to one year. He further states that the license period must be extended by one year. The second contention is that he had spent considerable sum towards erection of superstructure and that therefore, in terms of G.O.No.2160 Public Works Department dated 03.11.1987, he must be given extension.

3. The respondents have filed counter affidavit and the learned Additional Government Pleader submitted that the



petition deserves to be dismissed.

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4. I carefully considered the rival contentions and went through the materials on record.

5. The first respondent has filed counter affidavit and it is admitted that on account of the direction to shift their premises, the petitioner's running of the canteen was stopped for a period of ten days. The first respondent has strongly denied that on account of Covid Pandemic, the petitioner was not able to run the canteen for several months.

6. The writ Court cannot go into such factual aspects. This Court has to decide the issue based on the admitted position. According to the first respondent, the petitioner could not run the canteen for ten days during 2023. The petitioner's license period can be extended by ten more days. In other words, the petitioner's license period will come to an end on 05.01.2024. I make it clear that such direction is given only considering the special facts and circumstances of this case and I am not recognising any right as such.

7. As regards the petitioner's claim that he had made investment for erecting superstructure, the G.O relied on by the petitioner contains only guidelines and there is no



enforceable right as such. If the petitioner had made the investment after getting prior permission from the Dean, then probably the petitioner would have a case for extension of the license period. In this case, the investment said to have been made by the petitioner was done on his own volition and that without permission from the Dean. If the petitioner is not successful in getting license for the coming period, he can only have the right of removing the superstructure at the end of the license period.

8. With the aforesaid direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

22.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

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Public Works Department,
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G.R.SWAMINATHAN,J.

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