



WEB COPY

W.P.No.2454 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.2454 of 2024

and

W.M.P.No.2682 of 2024

M.Kandasamy

... Petitioner

Vs.

1.The Divisional Engineer,
Construction and Maintenance Highway,
Vellore District.

2.The Assistant Engineer,
Construction and Maintenance Highway,
Vellore District.

3.The Inspector Police,
Ariyur Police Station,
Vellore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Ka.No.1558(1185)(569)/2023/EVA-1/dated 03.10.2023 and quash the same and issue consequential direction directing the 1st respondent to renew the permission to run a bunk stall next to the Arch of the Golden



WEB COPY

W.P.No.2454 of



Temple (presently located) Vellore District.

For Petitioner	: Mr.M.Arun For Ms.S.Jayalakshmi
For R1 & R2	: Mr.N.Naveen Kumar Government Advocate
For R3	: Mr.S.Vinoth Kumar Government Advocate [Criminal Side]

ORDER

The rejection of the renewal application for continuing the Bunk Shop in the National Highways is under challenge in the present writ petition.

2. The Divisional Engineer, Highways Department granted permission to the petitioner for setting up of Bunk Shop near the Golden Temple, Vellore by an order dated 17.09.2020. Admittedly, the period of license was one year and after expiry of the period, the petitioner submitted an application for renewal of license. It was not subsequently renewed on the ground that National Highway Road Expansion project has been undertaken by the National Highway authorities and therefore, permission cannot be granted.



3. The learned counsel for the petitioner would submit that the road widening project is in proposal stage and therefore, the license granted to the petitioner is to be renewed.

4. Renewal of license cannot be claimed as an absolute right. Admittedly, the license was granted for a period of one year from 17.09.2020. Subsequently, it was renewed for further period, but finally expired on 17.09.2023. The application submitted by the petitioner for renewal of license was rejected.

5. The Divisional Engineer, Highways Department filed counter affidavit stating that accordingly, Vellore (H), C&M Division Office has given initial temporary permission to the petitioner based on his request to establish bunk 3.00 metre away from the Bituminous edge of Highways Road vide Vellore (H), C&M Division Office letter.No.569/2020/JDO-2/ dated 17.09.2020 with terms and conditions from Sl.Nos.1 to 11 (Enclosure - 2) for one year period with effect from 17.09.2020 to 16.09.2021 and to be renewed with effect from 17.09.2021, if required further. The above permission was granted stating under terms and conditions given at Sl.Nos.6 and 7 that “In



future, if any widening of road / improvements of road will be taken for execution by this Highways Department, the petitioner himself should remove the bunk premises at his own risk and cost and also, there should not be any claim in this regard, if any damages to the bunk occurred during widening of road / improvements of road by this Highways Department”. Also, in the terms and condition given at SI.Nos.7 and 8 clearly specified that “the given permission was on temporary basis only and Vellore (H), C&M Division Office reserved rights fully to give permission to others and to cancel the granted permission at any time”.

6. The license conditions have been stated in order dated 20.10.2021, when the permission was granted to the petitioner. The conditions stipulated in the permission order reveals that whenever a highway road widening project has been undertaken, the petitioner himself will remove the bunk shop, enabling the authorities to implement the road widening project. When the petitioner has agreed the said condition and installed a bunk shop, now he cannot turn around and claim renewal of license as a matter of right. Therefore, the petitioner has not established any right for the purpose of considering the relief as such sought for. The obstructions for road widening



projects are to be removed and the projects are to be implemented to subserve the public good.

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7. With these observations, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.04.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

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WEB COPY

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S.M.SUBRAMANIAM, J.

Jeni

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