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W.P.No.13809 of 2024 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.13809, 13810, 13812 to 13818, 13820 to 13822 of 2024

W.P.No.13809 of 2024 :-

M.Baskaran

... Petitioner

Vs.

1. The Commissioner of Municipal Administration,
11th Floor, Urban Administrative Campus,
Santhome High Road, MRC Nagar,
Chennai – 600 028.
2. The Regional Director of Municipal Administration,
Kakitha Pattarai, Vellore 12,
Vellore District.
3. The Commissioner,
Arcot Municipality,
Arcot 632 503,
Ranipet District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the impugned order in Na.Ka.No.1924/2018/A-1 dated 25.03.2024 on the file of the third respondent, quash the same and direct the respondent to waive the lease amount and to refund two (2) months lease amount which is already paid to the third respondent municipality along with salaries for



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item No 02, 04, 05, 08, 09 and 11 totaling to Rs.7,99,680/- and also for refund of security deposit/EMD of Rs.8,50,000/- along with original solvency certificate.

In all W.Ps.

For Petitioner : Mr.S.Hemalatha

For Respondents

For R1 & R2 : Mr.V.Manoharan
Additional Government Pleader

For R3 : Mr.B.Anand
Standing Counsel

COMMON ORDER

These writ petitions have been filed challenging the orders dated 25.03.2024, passed by the third respondent thereby rejected the claim of the petitioners to refund the licence fee amount which were already paid in favour of the third respondent.

2. The issues involved in all these writ petitions are one and the same and therefore, this Court is inclined to pass a common order.

3. The petitioners are the registered contractors with the third respondent. While being so, the third respondent issued notification for public auction-cum-tender for granting lease for a period of three years for various works within the limit of the third respondent such as, for



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collection of charges for carriage of truck, collection of charges for selling snacks and eatables at the municipal bus stand in a temporary trays or balanced trays on the head, collecting toll charges for buses entering the bus station, collecting the toll fee for cutting of goats at the Slaughter house, collecting the toll fee for parking of cycles in the cycle stand and scooters in the municipal bus stand, collecting the toll fee from the uses of modernized toilet constructed in the municipal bus stand.

4. The petitioners had participated in the auction-cum-tender floated by the third respondent. All the petitioners were highest and successful bidder for their respective work item for the period of 2021-2022. They were directed to remit entire lease amount and only after the payment of lease amount, they will be issued work order for their respective work. Accordingly, the petitioners had remitted their respective lease amount and they were given work order.

5. While being so, on completion of lease period, the third respondent by the notices, directed the petitioners to pay lease amount along with 5% increase for their subsequent years. Accordingly, the petitioners were paid the said amount as directed by the third respondent



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and they were issued work order for the subsequent year. For the next year also, the third respondent issued notice thereby directed the petitioners to pay lease amount as fixed by the third respondent with 5% increase. However, the petitioners could not able to pay the entire amount and they had paid only 50% of the said amount. Therefore, they were not issued with any work order as such they could able to collect toll fee.

6. At that juncture, Covid-19 came and ordered lock down. Therefore, there was no operation of new work due to lock down and the petitioners were prevented from collecting toll. Therefore, the petitioners submitted representation for seeking some relaxation from payment of lease amount. Further the petitioners also sought for waiver of lease amount during the Covid-19 lock down period. However, their representations were not considered. On the other hand, the petitioners were directed to pay remaining 50% of the lease amount.

7. Therefore, the petitioners and others challenged the said notices before this Court in W.P.No.18365 of 2020 etc., in which, this Court by an order dated 09.12.2020 passed an interim order, thereby



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directing the third respondent to immediately issue work order to the lease holder. Insofar as the amount that has been demanded is concerned, same shall be kept abeyance until further order passed by this Court.

8. In the mean time, the government considered the lock down due to Covid-19 and issued order in G.O.Ms.N.o.337 Municipal Administration and Water Supply (MA-IV) Department dated 16.06.2023, thereby ordered to waive lease amount for three months from 01.06.2010 to 30.08.2010 and subsequent period of 01.05.2021 to 30.06.2021 subject to the condition that only those tenants who do not have rental arrears/due to the local bodies.

9. This Court in the said writ petitions, filed by the petitioners and others, passed final order on 22.12.2023, thereby directed the third respondent to conduct enquiry on the representation submitted by the petitioners and pass reasoned orders, on the representation submitted by the petitioners seeking waiver of lease amount for the Covid-19 period. However, on enquiry, the third respondent rejected the request made by the petitioners. Hence the present writ petitions.



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10. The learned counsel appearing for the petitioners submitted that the petitioners in W.P.Nos.13809, 13810 & 13820 of 2024 have already been paid the entire lease amount and other petitioners are ready and willing to pay the balance 50% of the lease amount and therefore the third respondent may be directed to consider the claim made by the petitioners for waiver of lease amount the period from 01.06.2020 to 31.08.2020.

11. Heard the learned counsel appearing on either side and perused the material placed before this Court.

12. On perusal of the counter filed by the third respondent and on the submissions made by the learned Additional Government Pleader revealed that as per the government order in G.O.Ms.N.o.337 Municipal Administration and Water Supply (MA-IV) Department dated 16.06.2023, a licensee is entitled to waiver only when the shop/work was closed and there is no arrears of license fee from licence holder. Accordingly, the petitioners were in arrears and the government order is not applicable for them to waive license fee for the period of 01.06.2020 to 31.08.2020.



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13. As far as the petitioners in W.P.Nos.13809, 13810 & 13820 of 2024 are concerned, they have already paid the entire lease amount and made request for refund of wavering period amount for three months viz., 01.06.2020 to 31.08.2020 and the said request was forwarded to the first respondent to verify whether the petitioners had paid the lease amount and it is pending on the file of the first respondent.

14. As stated supra, except the petitioners in W.P.Nos.13809, 13810 & 13820 of 2024, other petitioners had paid only 50% of the lease amount for the year 2021-22. Admittedly, there was a lock down due to Covid-19. Considering the said fact only, the government passed order in G.O.Ms.N.o.337 Municipal Administration and Water Supply (MA-IV) Department dated 16.06.2023. It is relevant to extract the government order as follows :-

“7. The Government based on the decision as detailed at para 5 above and after careful examination of the proposal of Director of Municipal Administration, Greater Chennai Corporation and Director of Town Panchayats have decided to waive the payment of lease / rental amount of Rs.136,44,34,828/- (Rupees one hundred



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thirty six crore forty four lakh thirty four thousand eight hundred and twenty eight only) for the lock down period from 01.06.2020 to 31.08.2020 (first wave) and 01.05.2021 to 30.06.2021 (second wave) by the lessees in respect of the leased out properties of urban local bodies covering Greater Chennai Corporation, other corporations, municipalities and town panchayats, as detailed at para 6 above, subject to the condition that it is restricted to those shops which were actually closed during lockdown periods; the benefit extended to only those tenants who don't have rental arrears / dues to the local bodies; and the State Government shall not bear the waiver amount in this regard at any circumstances, and order accordingly. Commissioners of concerned urban local bodies are requested to allow the waiver after due verification”.

After submitting the representations, the petitioners were approached this Court. In view of the interim order passed by this Court, the petitioners did not pay the said 50% of the balance arrears amount for their respective work order in favour of the third respondent.

15. Considering the above facts and circumstances, insofar as the petitioners in W.P.Nos.13809, 13810 & 13820 of 2024 are



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concerned, the third respondent is directed to refund the licence fee for the period from 01.06.2020 to 31.08.2020 and 01.05.2021 to 30.06.2021 within a period of two weeks from the date of receipt of a copy of this Order. Insofar as other writ petitions are concerned, the petitioners are directed to pay the balance 50% lease amount in respect of their respective work in favour of the third respondent within a period of four weeks from the date of receipt of a copy of this Order. On receipt of the same, the third respondent is directed to refund the proportionate lease amount for the period from 01.06.2020 to 31.08.2020 and 01.05.2021 to 30.06.2021 as per the government order G.O.Ms.N.o.337 Municipal Administration and Water Supply (MA-IV) Department dated 16.06.2023, within a period of two weeks thereafter, in favour of the respective petitioners. It is also made clear that the third respondent shall return all the original documents which was deposited at the time of awarding the work order and security deposit if any, within the said period.

16. With the above directions, all the Writ Petitions stand disposed of. There shall be no orders as to costs.



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Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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