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W.P.No.27798 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM:

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

W.P.No.27798 of 2023
and W.M.P.No.27302 of 2023

Mohammed Rasool

... Petitioner

-Vs-

1. The District Collector,
Chengalpattu District.

2. The President,
Mamallapuram Special Grade Town Panchayat,
Chengalpattu District.

3. The Executive Officer,
Mamallapuram Special Grade Town Panchayat,
Chengalpattu District.

4. The Assistant Director of Town Panchayat,
Kanchipuram Zonal,
Kanchipuram.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the impugned orders passed by the first respondent under Reference No.Na.Ka.No.4525/2021 Peru 2, 08.03.2023 and the follow up order passed by third respondent under Reference No.Na.Ka.No.40/2022/A1 dated 20.03.2023 and quash the same. Consequentially direct the third respondent to release the proportionate amount for the period of 10 days payable for the period from 01.09.2022 to 05.09.2022



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and 08.01.2023 to 12.01.2023 in favour of the writ petitioner.

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For Petitioner : Mr.M.Ganesan
For R1 and R2 : Mr.V.Manoharan
Additional Government Pleader
For R3 : Mr.T.C.Harinath
for Mrs.S.Anitha

ORDER

This writ petition has been filed challenging the order passed by the first and third respondents dated 08.03.2023 and 20.03.2023, thereby rejected the request made by the petitioner seeking refund of lease amount for the period of 10 days from 01.09.2022 to 05.09.2022 and 08.01.2023 to 12.01.2023, thereby rejected the claim of the petitioner seeking refund of lease amount for the period of ten days.

2. Heard and perused the materials available on record.

3. The petitioner is an eligible Contractor and short listed by the third respondent in allotting the contracts to the contractors. The petitioner is the licensee to do contract works under the third respondent. Accordingly, the third respondent issued license to the petitioner for the purpose of collecting entry fee to the motor vehicles and also for the parking of the motor vehicles within the limits of Mahabalipuram area. In this regard, there was an open auction



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conducted by the third respondent for the above said license for the period from 01.09.2022 to 31.03.2023. The petitioner was one of the participants in the open auction and he had become a successful bidder with a quote of Rs.94,00,000/- as bid amount. In addition to that miscellaneous charges like cess fee and other charges in total amounting of Rs.1,12,85,640/- was paid by the petitioner. On such payment, the petitioner was issued with license for the purpose of collecting entry fee and parking fee for the period from 01.09.2022 to 31.03.2023. Though the petitioner was issued with license to collect the entry fees and parking fees from 01.09.2022 onwards, the petitioner was allowed to collect the said fees only from 06.09.2022. Therefore, the petitioner was not allowed to collect the entry fees for five days. The vehicle entry fee and vehicle parking fee details as follows:-

1.	2 wheeler motor cycle and scooter	1	Rs.15.00
2.	Tourist bus	1	Rs.125.00
3.	Tourist Van	1	Rs.100.00
4.	Tourist car/Personal use car	1	Rs.75.00

4. There is no specific terms and conditions indicating that the third respondent has got powers to withhold the petitioner from collecting the entry fee and parking fee of motor vehicles entering the Mahabalipuram area. Further, the third respondent once again restrained the petitioner from



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collecting motor vehicles fee and parking fee for the period from 08.01.2023 to

12.01.2023, on the ground that the same complaint was lodged as against the staff of the petitioner alleging that there was dispute between the staff of the petitioner and the general public with regard to collection of motor vehicle entry fee and parking fee. Therefore, the petitioner submitted a representation for refund of proportionate of the license fee for 10 days out of the total amount which was paid by the petitioner. It was rejected on the ground that due to administrative reason, the petitioner was allowed to collect entry fee and parking fee of the motor vehicles only from 06.09.2022. Further, there was dispute in respect of collection of entry fee as well as parking fee of the motor vehicle by the general public and as such, FIR was registered as against the staff of the petitioner. Therefore, in order to curb the law and order problem, the petitioner was directed not to collect any entry fee and parking fee of the motor vehicles from 08.01.2023 to 12.01.2023.

5. A perusal of the counter filed by the third respondent and the submissions made by the learned counsel for third respondent revealed that though the petitioner was issued license to collect entry fee and parking fee from 01.09.2022, due to administrative reasons, the petitioner was allowed to



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collect entry fee and parking fee only from 06.09.2022. Insofar as the second term from 08.01.2023 to 12.01.2023 is concerned, there was quarrel between the staff of the petitioner and the general public which caused road bandh and formed big public crowd in the road and they also blocked the road, which caused unnecessary nuisance to the public and Government officials. Therefore, the petitioner was stopped from collecting entry and parking fees.

6. Thus, it is clear that admittedly, the petitioner was restrained from collecting entry and parking fees of the motor vehicles in the Mahabalipuram area for the period from 01.09.2022 to 05.09.2022 and 08.01.2023 to 12.01.2023 for the period of 10 days. The petitioner had paid a sum of Rs.1,12,85,640/- for the license from 01.09.2022 to 31.03.2023 viz., six months. Out of six months, the petitioner was restrained from collecting entry and parking fees for a period of ten days.

7. Though the third respondent stated that there was quarrel between the staff of the petitioner and the general public, there is absolutely no evidence to show that there was complaint and registration of FIR. Even assuming that any case registered as against the staff for the dispute between the staff and the



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general public in respect of collecting entry and parking fees, the third respondent ought not to have stopped the petitioner from collecting entry fee and parking fee of the motor vehicles. Insofar as the period from 01.09.2022 to 05.09.2022 is concerned, even according to the third respondent, due to administrative delay, the petitioner was restrained from collecting the entry and parking fees of the motor vehicles, though the license period starts from 01.09.2022.

8. Therefore, the reasons stated by the respondents for rejection of refund of license fees cannot be sustained and are liable to be quashed. Accordingly, the impugned orders passed by the first respondent under Reference No.Na.Ka.No.4525/2021 Peru 2, 08.03.2023 and the follow up order passed by third respondent under Reference No.Na.Ka.No.40/2022/A1 dated 20.03.2023 are hereby quashed. The third respondent is directed to refund the proportionate fees for the period of 10 days out of total amount paid by the petitioner to the tune of Rs.94,00,000/- as bid amount, within a period of six weeks from the date of receipt of a copy of this order.



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WEB COPY 9. Accordingly, this writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. No costs.

08.08.2024

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J,

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To

1. The District Collector,
Chengalpattu District.
2. The President,
Mamallapuram Special Grade Town Panchayat,
Chengalpattu District.
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Mamallapuram Special Grade Town Panchayat,
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