



W.P(MD)No.201 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 23.01.2024

CORAM

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**W.P(MD)No.201 of 2024**  
**and**  
**W.M.P(MD)No.224 of 2024**

R.Manivannan

... Petitioner

-Vs-

1.The District Collector,  
Kanyakumari District,  
Kanyakumari.

2.The Assistant Director of Panchayat,  
Nagercoil Region,  
Nagercoil,  
Kanyakumari District.

3.The Executive Officer,  
Kanyakumari Special Grade Panchayat,  
Kanyakumari District.

... Respondents

**PRAYER:-** Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari calling for the records relating to the Impugned Order passed by the 3<sup>rd</sup> respondent vide his proceedings in Na.Ka.No.120/2022/A2, dated 02.01.2024 and quash the same as illegal.



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For Petitioner

: Mr.Ajmal Khan  
Senior Counsel  
for M/s.Ajmal Associates

For Respondents

: Mr.SRA.Ramachandran  
Additional Government Pleader  
for R1 and R2

: Mr.N.Muthu Vijayan  
for R3

### **ORDER**

This writ petition is filed seeking for issuance of a Writ of Certiorari, calling for the records relating to the Impugned Order passed by the 3<sup>rd</sup> respondent vide his proceedings in Na.Ka.No.120/2022/A2, dated 02.01.2024.

2. According to the petitioner, he has been residing in Kanyakumari District. The Kanyakumari Special Grade Town Panchayat-3<sup>rd</sup> respondent herein issued a tender cum auction notification dated 04.07.2022 inviting applications from the eligible candidates for collection of toll to the vehicles entering into Kanyakumari for the period of 3 years. Another tender cum auction notification dated 26.10.2023 was issued for the parking of the vehicles in Kadarkarai Salai for the period of 60 days (between 17.11.2023



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and 20.01.2024). The petitioner participated in the tender and became the successful bidder. The 3<sup>rd</sup> respondent vide his proceedings dated 29.07.2022 issued an order permitting the petitioner to collect the toll for the vehicles entering into Kanyakumari District. Accordingly, he paid Rs.25,00,000/- (Rupees Twenty Five Lakhs only) towards security deposit to the 3<sup>rd</sup> respondent and paid the license amount of Rs.79,86,122/- (Rupees Seventy Nine Lakhs Eighty Six Thousand One Hundred and Twenty Two only) for the lenience period from 01.08.2022 to 31.07.2023. After completion of one year period, the petitioner paid the license amount of Rs.83,85,544/- (Rupees Eighty Three Lakhs Eighty Five Thousand Five Hundred and Forty Four only) for the period from 01.08.2023 to 31.07.2024. Likewise, the 3<sup>rd</sup> respondent vide his proceedings dated 17.11.2023 permitted the petitioner to collect the parking fee for the limited period of 60 days. Accordingly, the petitioner paid Rs.10,00,000/- (Rupees Ten Lakhs only) towards security deposit to the 3<sup>rd</sup> respondent and also paid the license amount of Rs. 22,50,000/- (Rupees Twenty Two Lakhs and Fifty Thousand only) for the lenience period from 17.11.2023 and 20.01.2024. By spending huge amount, the petitioner got the lease and scrupulously is following the terms and conditions of the tender.



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3. According to the petitioner, there are some disputes between some of the employees involved in this process and the public for various reasons. One of the employees involved in toll collection fabricated the bill book and thereby collected huge amount from the public. When the petitioner came to know that the said employee caused loss to the tune of Rs.87,000/- (Rupees Eighty Seven Thousand only) besides causing disreputation to the petitioner. Hence, the petitioner lodged a complaint in Crime No.259 of 2023 dated 07.10.2023 and the said employee was arrested and remanded to judicial custody and the petitioner employed another person for collecting the rent without any deviation and there is no complaint from any quarters. While so, the 3<sup>rd</sup> respondent vide his proceedings dated 28.11.2023 issued a show cause notice to the petitioner as to why the petitioner's leasehold right should not be cancelled. The same notice was also issued in respect of the collection of parking amount. In response thereto, the petitioner submitted a detailed explanation and also stated that all the bill books contained the proper seal of the 3<sup>rd</sup> respondent and there are no discrepancies. That being the situation, the 3<sup>rd</sup> respondent vide his impugned proceedings in Na.Ka.No.120/2022/A2 dated 02.01.2024 has cancelled the two lease orders



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passed in his favour. Though distinct show cause notices were issued, the cancellation order is common. In the impugned order, it is stated that there is a complaint from Kerala Tourist Promoters Association. The 3<sup>rd</sup> respondent also conducted a surprise visit in which the collection of higher amount was proved and in this regard, a resolution was passed on 30.11.2023 vide Resolution Nos.204 and 224 to cancel the license without hearing the petitioner and without considering his explanation given to the show cause notices which is purely violation of principle of natural justice. According to the petitioner, he cannot be ousted like this without giving an opportunity of hearing and without issuing copy of the documents which were relied upon by them to come to such conclusion.

4. The learned Additional Government Pleader, on instructions, submitted that as per Resolution No.137 dated 29.07.2022 passed by the 3<sup>rd</sup> respondent, the license amount of Rs.67,11,111/- (Rupees Sixty Seven Lakhs Eleven Thousand Eleven Hundred and Eleven only) per annum was accepted by the petitioner as a successful bidder, and a sanction order was issued to the petitioner on 29.07.2022 with the condition that in case of breach of condition by the lessee to collect the prescribed fee, the 3<sup>rd</sup>



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respondent shall cancel the license within 24 hours after issuing notice to the concerned lessee under Clauses 3 and 13 of the sanction order. A lease agreement was executed on 01.08.2022 between the petitioner and the 3<sup>rd</sup> respondent for the said location including the above said conditions as condition Nos.2 and 12 for collection of prescribed toll fees and in case of violation, the same will be cancelled with 24 hours notice. He further submitted that they received numerous complaints from various sources, ie., on 10.08.2023, Kerala Tourism Promoters Association had submitted a complaint that Rs.200/- (Rupees Two Hundred only) received as entry fees on 06.08.2023 for a tourist bus and old receipt was given to them and hence, they lodged a complaint with receipt. The Panchayat Council members of Ward Nos.1 to 18 lodged complaint on 30.08.2023 that this petitioner had fabricated and forged bill book in the name of Panchayat and collected excess amount. Because of this violation, there were huge law and order problems between the tourists and the petitioner. Further, a complaint was given to the Chief Minister Complaint Cell by one Deepeeka alleging that when she came to Kanyakumari on 01.10.2023, she was obstructed by one Prakash and demanded entry fees of Rs.100/- (Rupees One Hundred only) without any identity card. When they decided to cancel the trip to



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Kanyakumari and returned their car, the collection man dashed with car and threatened the tourists. Hence, they decided not to visit Kanyakumari and it diminished our State's tourist image. Hence, the said complaint was forwarded through the Tourist Ministry for immediate action. Thereafter, show cause notice was issued to the petitioner on 30.08.2023 and on 02.09.2023, he replied that some newly appointed collection men had collected excess amount with forged receipt book and then, he lodged a police complaint regarding this. Again on 08.09.2023, the 3<sup>rd</sup> respondent issued another notice for details regarding the name of the collection men and the name of the Press which printed the fake bill book, for that, the petitioner replied on 11.09.2023 stating that the person's name is Raja and the Press name is P.R.Papers Press. Thereafter, on 04.10.2023 and 10.10.2023 the 3<sup>rd</sup> respondent gave a complaint to the Inspector of Police, Kanyakumari Police Station to take criminal action against the petitioner and his servant Raja and the owner of P.R.Papers Press, namely, Robinson then to the Superintendent of Police on 12.10.2023 and 28.11.2023. He has also conducted a personal inspection to the entry fee collection point and found that the petitioner still collected excess entry fee with forged Panchayat seal and receipt. Hence, the violation of tender condition is



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confirmed. According to him, before passing the cancellation order by the 3<sup>rd</sup> respondent, the principle of natural justice has been properly followed based on lease agreement. Hence, there is no violation of principle of natural justice.

5. On going through the averments, it is seen that the petitioner was issued with show cause notice and explanation was also given by the petitioner. Then, another show cause notice was also issued to him for further explanation and after hearing him, appropriate orders has been passed.

6. Mr.Ajmal Khan, learned Senior Counsel appearing on behalf of the petitioners submitted that there are no proper copies of the complaints and other materials furnished to them in order to substantiate his defence with materials. He further submitted that if such wrong has been done by his employees, the petitioner is not liable for such severe action and if at all they are going to be in violation, there can only certain other formalities be issued and then, later on, if still there is any violation, they can cancel the agreement.



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7. The submission made by the learned Senior Counsel for the petitioner is accepted by this Court and they have not been settled with proper materials based on which the impugned order and show cause notice has been issued. Hence, this Court directs the third respondent to furnish the copies of the said documents which were relied upon by them while issuing the impugned order within a period of one week and the petitioner shall submit their reply within two weeks and the 3<sup>rd</sup> respondent is directed to hold an enquiry as per law and then, pass appropriate orders within a period of four weeks. The order impugned in this petition shall be set aside. The 3<sup>rd</sup> respondent can collect the entry fee amount and keep it in a separate account.

8. With the above direction, this writ petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

**23.01.2024**

NCC : Yes/No  
Index : Yes/No  
Internet : Yes/No  
PJJ

***Note: Issue order copy on 29.01.2024.***



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To

- 1.The District Collector,  
Kanyakumari District,  
Kanyakumari.
- 2.The Revenue Divisional Officer,  
Padmanabhapuram Division,  
Kanyakumari District.
- 3.The Tahsildar,  
Kalkulam Taluk,  
Kanyakumari District.
- 4.The Superintendent of Police,  
Kanyakumari District.
- 5.The Inspector of Police,  
Iranial Police Station,  
Kanyakumari District.



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**V.BHAVANI SUBBAROYAN, J.**

PJL

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