



W.P.(MD)No.24142 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2024

CORAM:

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)Nos.24142, 24143, 24144 and 24145 of 2024
and

W.M.P.(MD)Nos.20417, 20419, 20416, 20418, 20422, 20423, 20420 &
20421 of 2024

1.B.Vijaya Raghavan

... Petitioner in W.P.(MD)No.24142 of 2024

2.Manimoorathi

... Petitioner in W.P.(MD)No.24143 of 2024

3.M.Navaneethakrishnan

... Petitioner in W.P.(MD)No.24144 of 2024

4.K.Manikkapandi

... Petitioner in W.P.(MD)No.24145 of 2024

Vs.

The Commissioner,
Madurai Municipal Corporation,
Madurai

... Respondent in all Wps.

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the respondent dated 04.10.2024 served on the petitioners on 05.10.2024 at 2.30 pm in A1/12392/2024 quash the same and consequently permit the



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petitioners to continue the license for the gents' and lady's toilet situated in Platform Nos.3, 1, near Merina Hotel, and Plot No.2 in MGR Bus Stand, Madurai.

For Petitioners : Mr.R.Murali
(in all Wps.)

For Respondent : Mr.K.Manisekaran,
Standing Counsel
(in WP.(MD)Nos.24142 & 24143 of 2024)

For Respondent : Mr.K.Sivabalan,
(in WP.(MD)No.24144 of 2024) Standing Counsel

For Respondent : Mr.S.Vinayak,
(in WP.(MD)No.24145 of 2024) Standing Counsel

COMMON ORDER

These writ petitions have been filed seeking orders to the impugned order of the respondent dated 04.10.2024 served on the petitioners on 05.10.2024 at 2.30 pm in A1/12392/2024 and consequently permit the petitioners to continue the license for the gents' and lady's toilet situated in Platform Nos.3, 1, near Merina Hotel, and Plot form No.2 in MGR Bus Stand, Madurai.



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2.Mr.K.Manisekaran, learned Standing Counsel takes notice for the respondent in WP.(MD)N0s.24142 & 24143 of 2024 Mr.K.Sivabalan, learned Standing Counsel takes notice for the respondent in WP.(MD)Nos. 24144 of 2024 and Mr.S.Vinayak, learned Standing Counsel takes notice for the respondent in WP.(MD)No.24145 of 2024. By consent, these writ petitions are taken up for final disposal at the admission stage itself.

3.It is the case of the petitioners that they had participated in the auction for collection of fee for gents' and lady's toilet situated in Platform Nos.3, 1, near Merina Hotel, and Plot No.2 in MGR Bus Stand, Madurai and they have become successful bidder. The period of license is for three years commencing from 2021 to 2024. Lastly, on 19.08.2024, petitioners' license was extended for a period of three months from 01.09.2024 to 30.11.2024. All of a sudden, the petitioners were served with the impugned order dated 04.10.2024, which was served them on 05.10.2024 at about 02.30 pm., directing them to handover the keys of the toilets by 05.00 pm., on 06.10.2024, thereby cancelling the license of the petitioners.

4.The petitioners are challenging the impugned order on the ground



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that the respondent/corporation had taken a policy decision and further, based on the order of this Court in W.P.(MD)Nos.23717 & 23718 of 2024 dated 04.10.2024, that all the pay and use toilets are going to be free toilets. There is no reference about the date of resolution passed by the council or when such a decision was taken by whom and when said decision going to be implemented.

5.The learned counsel appearing for the petitioners would submit that as per Section 40 of the Tamil Nadu Urban Local Bodies Act, 1998, it is only the council can have the powers and functions to take a policy decision. As per Section 42 of the said Act, the Commissioner shall give effect every resolution of the council. Therefore, the respondent has no jurisdiction or authority to pass the impugned order, without approval of the council by way of resolution. He further submits that as per Rule 302(c) of the Urban Local Bodies Rules, the respondent shall call upon the licensee by notice in writing stating grounds to show cause within 7 days. But, no show cause notice was issued. Therefore, the impugned order, without any show cause notice is illegal and violative of the said Rule.



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6.The learned Standing Counsels appearing for the respondent submits that the respondent / Corporation had taken a policy decision and passed an order dated 04.10.2024, wherein it has clearly been stated that all the pay and use toilets are going to be free toilets. He further submits that based on an order dated 04.10.2024, the respondent / Corporation has taken the possession from the petitioners and he has also produced the copy of the affidavit of the respondent / Commissioner filed before this Court in WP.(MD)Nos.23717 & 23718 of 2024, wherein, the respondent / Corporation has clearly stated that in the interest of general public, Madurai Corporation decided to change all the pay and use toilets in MGR Bus Stand, Mattuthavani, Madurai as free toilets. Since the respondent / Corporation has taken the possession from the petitioners, nothing survives in these petitions and become infructuous. He also submits that concerned Corporation Officials are also present before this Court and they undertakes that the amount, which are eligible and payable to the petitioners, will be refunded on 15.10.2024, after calculating and getting approval from the Authorities concerned.

7.By way of reply, the learned counsel appearing for the petitioners



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submits that the respondent / Commissioner has not taken the possession from all the license holders, who are holding license for collecting fee for using toilets in MGR Bus Stand, Mattuthavani, Madurai and they have been taken possession from the petitioners herein only and they have not uniformly implemented the impugned order.

8.In the affidavit filed by the respondent / Commissioner in W.P. (MD)Nos.23717 & 23718 of 2024, in Paragraph No.4, it has been stated as follows:-

4.I submit that in the interest of General Public the Madurai Corporation decided to change all the pay and use toilets in MGR Bus Stand, Mattuthavani as free toilets. In the above circumstances the petitioners have to hand over the possession of the toilets to the Corporation immediately.

9.In the impugned order dated 04.10.2024, it has been stated that the respondent / Corporation had taken a policy decision and further based on the order of this Court dated 04.10.2024, in W.P.(MD)Nos.23717 & 23718 of 2024, it was stated that all the pay and use toilets are going to be free toilets. In the impugned order it is also stated that the license fee has been refunded to the petitioners as per norms.



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10.It is a well-established proposition of law that whenever an aggrieved party approaches the Writ Court under Article 226 of the Constitution of India, the Writ Court can exercise power of judicial review and does not act as a Court of appeal. Normally, the Writ Court will not enter into or decide about the adequacy or sufficiency of the reasons recorded by the adjudicating Authority.

11.This Court considered the submissions made on either side and perused the materials placed before this Court.

12.Considering the fact that the respondent / Corporation has already taken the possession from the petitioners on 06.10.2024, as mentioned in the impugned order dated 04.10.2024 and also by recording the undertaking now given by the respondent / Corporation, this Court directs the respondent / Corporation to disburse the eligible and payable amount to the petitioners, on or before **15.10.2024**.

13.With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.



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14.Post the matters on 15.10.2024 for reporting compliance.

09.10.2024

NCC :yes/No

Index :yes/No

Internet:yes/No

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Note: Issue order copy on 10.10.2024

To
The Commissioner,
Madurai Municipal Corporation,
Madurai.



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M.JOTHIRAMAN,J.

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