

W.P.(MD)No.8620 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2025

CORAM:

**THE HONOURABLE MRS. JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS. JUSTICE S. SRIMATHY**

**W.P.(MD)No.8620 of 2025
and
W.M.P.(MD)Nos.6443 and 6444 of 2025**

Balaji

... Petitioner

Vs.

1. The Principal Secretary to Government,
The Municipal Administration and Water
Supply Department,
St. George Fort, Chennai.

2. The District Collector,
Madurai.

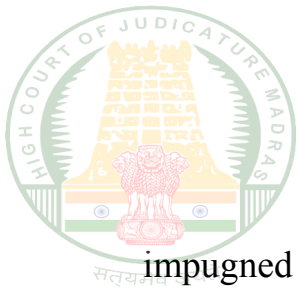
3. Melur Municipality,
Represented by its Commissioner,
Melur, Madurai District.

4. The Chairman,
Melur Municipality,
Melur, Madurai District.

5. S. Ezhilvendhan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a *Writ of Certiorarified Mandamus*, to call for the



W.P.(MD)No.8620 of 2025

impugned Minutes, dated 21.03.2025, under Proceeding No.Nil, on the file of the 4th respondent herein and to quash the same as far as the Board Subject No.28 alone is concerned and to direct the respondents 1 to 4 to invite Fresh Tender for the grant of license to collect user fees charges in the Melur Municipal Weekly Market, enabling the public to offer their tender price more than the fee fixed for the extension of the license to the 5th respondent to the said sum of Rs.57,25,000/- under the present impugned Minutes.

For Petitioner	: Mr.K.R.Laxman
For R1 and R2	: Mr.P.Thilak Kumar Government Pleader
For R3 and R4	: Mr.Veera Kathiravan Additional Advocate General assisted by Mr.Pandiyarajan Standing Counsel
For R5	: Mr.N.Dilip Kumar

ORDER

(Order of the Court was delivered by **S.SRIMATHY, J.**)

The present writ petition is filed for Writ of *Certiorarified Mandamus*, to quash the impugned Minutes, dated 21.03.2025, under Proceeding No.Nil, on the file of the 4th respondent herein as far as the Board Subject No.28 alone is concerned and to direct the respondents 1 to 4 to invite Fresh Tender for the grant of license to collect user fees charges in the Melur Municipal Weekly Market, enabling the public to offer their tender price more than the fee fixed for the



W.P.(MD)No.8620 of 2025

extension of the license to the 5th respondent to the said sum of Rs.57,25,000/- under the present impugned Minutes.

2. The present writ petition is filed as public interest litigation. The contention of the petitioner is that because of extension of license, the Income of the 3rd and 4th respondents are curtailed. The last date for the current license of the 5th respondent is until 30.03.2025. The petitioner values the tender to a sum of Rs. 1,00,00,000/- (Rupees One Crore only) and the petitioner is ready to take the said tender, by paying the said amount, as and when required. In fact, the petitioner apprehends that he may lose the tender, if the license to collect user fees charges in the Melur Municipal Weekly Market is let in public auction, as there are several persons who are ready to take tender even more than Rs. 1,00,00,000/- (Rupees One Crore only). In such circumstances, the Board Subject No. 28 in Minutes, dated 21.03.2024 kept for extension of license to the 5th respondent, for a sum of Rs.57,25,000/- would cause loss to the municipality. The municipality is mandated to carry lot of public welfare, by this loss the same cannot be carried. Hence the present writ petition.

3. Heard Mr.K.R.Laxman, the Learned Counsel appearing for the petitioner, Mr.P.Thilak Kumar, the Learned Government Pleader appearing for the



W.P.(MD)No.8620 of 2025

respondents 1 and 2, Mr.Veera Kathiravan, Learned Additional Advocate General, assisted by Mr.Pandiyarajan, Learned Standing Counsel appearing for the respondents 3 and 4 and Mr.N.Dilip Kumar, Learned Counsel appearing for the 5th respondent.

4. The primary contention of the petitioner is that originally the request of the 5th respondent was not considered by the authorities, hence the 5th respondent had filed W.P.(MD)No.2580 of 2025 and the Writ Court directed the authorities to consider and pass orders. Thereafter, the 4th respondent rejected to grant extension of license period vide order dated 24.02.2025 in Na.Ka.No. 286/2025/A2 and the same was challenged in W.P.(MD)No.6734 of 2025. The Writ Court vide order dated 12.03.2025 quashed the order dated 24.02.2025 and remanded the case to the authorities to pass orders within a period of one month in accordance to law. The Writ Court has not issued any positive direction to the authorities to extend license. But the authorities had extended the license for a meagre amount of Rs.57,25,000/-, inspite of the fact if the license is let for public auction the same would fetch more income. When the 3rd and 4th respondents, being the statutory local body are empowered to take a decision to let for public auction when the revenue would be more. Hence, the grant of extension of existing license is against the local body revenue and highly prejudicial to the



W.P.(MD)No.8620 of 2025

public.
WEB COPY

5. On the other hand, the 5th respondent submitted that the license for collecting user fee in municipal 'weekly market' meant for cattle was granted to him vide proceedings dated 03.06.2022 until 30.03.2025. Apart from the above market the municipality was conducting 'daily vegetable market' in a different complex. However, the municipality was in the process of demolishing the daily market complex and was reconstructing it. Hence the shops located in the daily market complex were relocated to the weekly market meant for cattle, where the petitioner was having license to collect user fee from the persons coming to the market. The said daily vegetable market having more than 100 vegetable shops and other shops was continued to operate for more than two and half years from 2022 to 2025, thereby severely affected the functionality of the 'weekly cattle market' causing serious business losses and financial constraints to the 5th respondent. The 5th respondent had already deposited the entire bid amount along with tax for the past three years. Now the intervening vegetable daily market in the space allotted to weekly goat market for the past two and half years has caused business loss to the 5th respondent, hence he had submitted application for extension by invoking G.O.Ms.No.66, Municipal Administration and Water Supply (MA-4) Department, dated 06.08.2024. The official respondents had

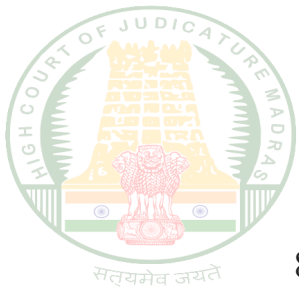


W.P.(MD)No.8620 of 2025

considered the said application and had granted extension vide the impugned resolution dated 21.03.2025 and the 5th respondent is waiting for the individual order. Therefore, there is no infirmity in the resolution when the extension is granted as per G.O.Ms.No.66.

6. After hearing the rival submissions, this Court is of the considered opinion that the appropriate authority is Elected Panchayat Council. When the Council had passed a resolution after considering the factors of the case, the same cannot be questioned unless it is against law. As per G.O.Ms.No.66 the authority has power to grant extension for further three years. When the Council has power to grant extension, then the extension cannot be termed as illegal.

7. At this juncture, the petitioner submitted that the said G.O.Ms.No.66 is only recommendatory in nature and not mandatory since the said G.O.Ms.No.66 only uses the word “may”. This Court is of the considered opinion even if it is stated as “may”, if the Council had decided to grant extension and the same is within the power granted under G.O.Ms.No.66, the same cannot be held illegal. As held supra if any decision is beyond law, then only judicial review would lie, not in every order or decision taken by the executive. Therefore, this Court is not inclined to interfere in the impugned resolution passed by the Council.



WEB COPY

8. The next contention of the petitioner is that a small portion was let as daily vegetable market, wherein, out of at least 03 acres, only 40 cents were let for such vegetable market, which has no nexus with the smooth functioning of the weekly cattle market, which is meant for Cow/Bull/Goat buying and selling. On the other hand, the 5th respondent submitted that the construction of small shops was put up for the daily vegetable market and the same was put up in prime area in the market meant for weekly goat market, thereby the 5th respondent had incurred loss. The 5th respondent produced photos and sketch to establish the same. On perusing the same it is seen that in a prime area the construction of shops is put up. Further it is seen normally the extension of license cannot be granted as a matter of right. But extension ought to be considered when there is change in the contract between the parties and due to such change, the license incurred loss. In the present case the petitioner was granted the entire 3 acres for “weekly goat market”, but due to diminish in the area, the entire area could not be utilised for running the market. Therefore, this Court is of the considered opinion that claim of the 5th respondent ought to be considered.

9. The next contention of the petitioner is that the 5th respondent has not incurred any financial loss on shifting and prolonged use of the daily vegetable market. Moreover, if the 5th respondent has incurred loss, that cannot be a ground



W.P.(MD)No.8620 of 2025

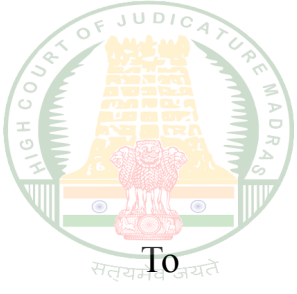
for extension of the license and the 5th respondent is entitled to claim damages for the loss incurred. Further the petitioner had relied on the statements of Learned Additional Advocate General submitted in W.P.(MD)No. 6734 of 2025, which is recorded in the order dated 12.03.2025 passed in W.P.(MD) No.6734 of 2025. The petitioner's contention cannot be accepted, since such submission of the AAG was negated by the Writ Court, thereafter the Writ Court had directed the authorities to pass order in the light of G.O.Ms.No.66. Further this Court is dealing with the public interest litigation and not writ appeal, therefore the petitioner's argument ought to be rejected.

10. Furthermore, the scope of public interest litigation cannot be widened to challenge the vires of G.O.Ms.No.66 or the validity of the G.O. and provisions of Urban Local Bodies Act. Therefore, the other grounds raised in the present writ petition cannot be considered.

11. With the above said observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[J.N.B., J.] [S.S.Y., J.]
27.03.2025

Index : Yes / No
Tmg



W.P.(MD)No.8620 of 2025

To

WEB COPY

- 1.The Principal Secretary to Government,
The Municipal Administration and Water
Supply Department,
St.George Fort, Chennai.
- 2.The District Collector,
Madurai.
- 3.Melur Municipality,
Represented by its Commissioner,
Melur, Madurai District.
- 4.The Chairman,
Melur Municipality,
Melur, Madurai District.



WEB COPY



W.P.(MD)No.8620 of 2025

J.NISHA BANU, J.

and

S.SRIMATHY, J.

Tmg

W.P.(MD)No.8620 of 2025

27.03.2025