

*** THE HONOURABLE SRI JUSTICE N.V. SHRAVAN KUMAR**

+ WRIT PETITION Nos.8292 and 8294 of 2023

% Dated 13-06-2024

Between:

N.Naveen Kumar and another

... Petitioners

and

\$ The State of Telangana,
Represented by its Principal Secretary,
Endowment Department,
Secretariat Building, Hyderabad and others.

.... Respondents

! Counsel for the Petitioner : Mr. C.Ramachandra Raju

^ Counsel for the respondents : Sri J.R.Manohar Rao, Standing Counsel
for R-1 to R-3

< GIST : ---

>HEAD NOTE : ---

? Cases referred: :

THE HONOURABLE SRI JUSTICE N.V. SHRAVAN KUMAR**WRIT PETITION Nos.8292 and 8294 of 2023****COMMON ORDER:**

Since the issues involved in these two writ petitions are common, they are being disposed of by this common order.

2. These two writ petitions have been filed challenging the action of the 3rd respondent, Executive Officer, Ujjaini Mahankali Temple, Secunderabad, in issuing the tender notification dated 03.03.2023 inviting sealed tenders for rights over collection of sarees and blouse pieces and for collection of ½ coconut pieces for nine months and one year, respectively, without extending the lease period of the petitioners for 292 days by taking into consideration of the proceedings issued by the 1st respondent, Principal Secretary, Endowments Department, vide Memo No.14199/Endts.II/A2/2020 dated 17.12.2021 and also the proceedings of the 2nd respondent, Commissioner of Endowments Department, vide proceedings L.Dis.No.C2/3814/2022 dated 29.11.2022 and further proceedings vide L.Dis.No.C2/3814/2022 dated 23.01.2023, the petitioners filed the present writ petitions.

3. It is the case of the petitioners that they were granted license rights for a period from 01.04.2020 to 31.03.2021 for collection of Sarees and coconuts pertaining to the 3rd respondent, Ujjaini Mahankali Temple. Due to Covid-19 pandemic, nationwide lockdown was declared for the years 2019 and 2020 and the shops were closed. Keeping in view the pandemic

situation, the Office of the Commissioner, Endowments Department, vide L.Dis.No.C2/1101/202 dated 26.04.2021 extended the license rights for three months i.e. from 01.04.2021 to 30.06.2021. Subsequent thereto, the Government vide Memo No.14199/Endts.II/A2/202 dated 17.12.2021 extended the lease/license period for a total of 292 days (21.03.2020 – 06.06.2020 and 09.06.2020 to 10.10.2020 (202 days) and 01.04.2021 to 30.06.2021 (90 days). Since the petitioners could not avail the benefit of extension of lease/license period of 292 days, the 2nd respondent issued proceedings vide L.Dis.No.C2/3814/2022, dated 29.11.2022 directing the 3rd respondent to follow the orders of the Government Memo dated 17.12.2021. Since the 3rd respondent, without implementing the orders of the 2nd respondent, has issued a tender notification dated 03.03.2023, inviting sealed tenders for the 3rd respondent's temple for the period from 01.04.2023 to 31.12.2023 for rights over collection of sarees and blouse pieces and for collection of ½ coconut pieces for one year, the petitioners were constrained to file the present writ petitions.

4. On behalf of the 3rd respondent, Executive Officer, Ujjaini Mahankali Temple, while denying the writ averments, counter affidavit has been filed, *inter alia*, stating that the subject temple has various mulgies which have been let out from time to time by way of tender cum public auction for the purpose of generating stable income for the subject temple. Out of the said mulgies the petitioners were allocated respective mulgies for the purpose of conducting their business activity and granted license rights from 01.04.2019 to 31.03.2020 and 01.04.2020 to 31.03.2021. Thereafter,

taking into account the grim situation due to Pandemic, the license period was extended for a period from 01.04.2021 to 30.06.2021 (90 days) which the petitioners have availed beyond their terms of license. Therefore, the petitioners are not entitled to any further extension. It is further submitted that subsequently, the license rights have been changed hands twice through public auction for which the petitioners have not objected even once, which clearly shows that the petitioners have foregone/waived the opportunity for extension as such, they are now estopped from claiming the extension after the lapse of considerable period of time. Eventually, it is submitted that the petitioners have tactfully filed the present writ petitions as the present license period is about to expire on 31.03.2023. Hence, these writ petitions are liable to be dismissed.

5. On behalf of the respondent No.3, a Memo dated 12.02.2024 has been filed showing the details of daily ticket collection of the subject temple from 09.06.2020 till 31.10.2020 to substantiate that the temple was open during that period and the petitioners have conducted their business during the said period. Since the petitioners have already availed the benefit during the said, no further benefit of extension be extended to the petitioners.

6. On behalf of the petitioners, while denying the counter averments, reply affidavit has been filed to the counter affidavit filed by the respondents, *inter alia*, stating that the petitioners have participated in the tender and paid the tender amount in the March, 2020 and due to Covid-19 lockdown was declared from 22.03.2020 i.e. ten days prior to the starting of the petitioners tender i.e. 01.04.2020. It is further submitted that as per

the request of all the business holders for the loss occurred to them during the Covid-19 period, the Government had issued a Memo dated 17.12.2021 extending the lease/license period for the business holders and as such, the petitioners are entitled for a period of 292 days and they are the leaseholders during the period of 21.03.2020 to 06.06.2020. It is further submitted that the extension of lease period of the petitioners is from 01.04.2021 to 30.06.2021 was also during the Covid-19 period and the Memo dated 17.12.2021 was issued subsequent thereof i.e. after 01.04.2021 to 30.06.2021 and as such, the petitioners are entitled to extension of 292 days. It is further submitted that the petitioners are the license holders from 01.04.2023 to 31.03.2025.

7. On behalf of the petitioner in W.P. No.8294 of 2023, an additional affidavit has been filed stating that the petitioner was awarded license for a period of one year from 01.04.2020 to 31.03.2021 by way of tender notification. Due to nationwide lockdown imposed by the Government of India due to the pandemic Covid-19 from 21.03.2020 to 08.06.2020, the petitioner was deprived of his license period from 01.04.2020 to 08.06.2020 for a period of 69 days. To compensate his loss of license period, the 2nd respondent has extended his license for a period of 90 days from 01.04.2021 to 30.06.2021. However, he could not avail the extension period of his license due to the 2nd lockdown imposed by the State Government for the period from 01.04.2021 to 30.06.2021. It is further submitted that based on the representations made by the license holders seeking to extend their license period to compensate loss of license period due to the nationwide

lockdown and the second lockdown imposed by the State Government and due to the severe impact of the pandemic after lifting of nationwide lockdown, the State Government has passed an order dated 17.12.2021, extending the license period of all the licenses/leases of the temples for three spells of period from 21.03.2020 to 08.06.2020 i.e. nationwide lockdown period, from 09.06.2020 to 10.10.2020 during which period the temples were closed due to severe impact of the pandemic and another period from 01.04.2021 to 30.06.2021, which is the 2nd lockdown imposed by the State Government. As the order of the Government extending the license period came into existence after the expiry of license period, the petitioner could not avail the benefit immediately after expiry of license period. It is further submitted that for the second time the petitioner was granted license for a period of one year from 01.04.2023 to 31.03.2024 by virtue of sealed tender-cum-public auction. While calculating the period the petitioner overall submits that he is entitled to 191 days after expiry of license period by 31.03.2024. After the expiry of license period by 31.03.2024, the 3rd respondent has issued tender notification for grant of license but the tenders submitted by the bidders were not accepted by the 3rd respondent for want of satisfactory bid. Accordingly, no license was granted till date to anyone after the expiry of license period by 31.03.2024.

8. It is further submitted that the petitioner ought to have been allowed to continue his business from 31.03.2024 onwards. But not allowing the petitioner to continue from 31.03.2024 onwards and non granting of any

license to anyone after the expiry of license of the petitioner by 31.03.2024 would be of no use either to the petitioners or to the respondents.

9. Heard the learned counsel on either side and perused the material made available on the record.

10. The main grievance of the petitioners is that though the Government had issued a Memo dated 17.12.2021 extending the benefit of lease/license period for 292 days due to pandemic situation and the 2nd respondent had issued instructions to the 3rd respondent to follow the orders of the Government Memo dated 17.12.2021, the 3rd respondent is not extending the said benefit to the petitioner and more so, had invited sealed tender cum open auction dated 03.03.2023 inviting tenders from 01.04.2023 to 31.12.2023 for rights over collection of sarees and blouse pieces and for collection of ½ coconut pieces for one year.

11. During the course of arguments, the learned Standing Counsel appearing for the respondents would submit that if the petitioners are ready to pay the amount of Rs.32 lacs as was paid for the period from 01.04.2020 to 30.03.2021 they have no objection for continuing the petitioners for this financial year i.e. from 01.04.2024 to 30.03.2025 for which, on instructions, the learned counsel for the petitioner submitted that the petitioners are not in a position to pay such huge amount for this financial year and are not interested to take up the auction.

12. The learned counsel for the petitioner would further submit that the respondents are bound to implement the orders passed by the Government Memo dated 17.12.2021 for 292 days. However, as per the calculations, the petitioners are confining for 191 days. The learned counsel for the petitioners would submit that the money paid for the said period is already lying with the respondents and pray this Court to permit the petitioners to continue their business for a period of six months i.e. for 180 days to cover up the loss suffered by the petitioners during the Covid-19 period for which, the learned Standing Counsel for the respondents did not accept. At last, the learned counsel for the petitioners, on instructions, requested to pass appropriate orders.

13. In the case on hand, admittedly, the memo filed by the respondents regarding the ticket collection of the subject temple has not been signed by any of the authority, which cannot be accepted as source of evidence.

14. It is pertinent to note that even though there is inflation and prices have gone up, the petitioners are not willing and are unable to pay the same sum as was paid for the financial year 2020-2021, from which this Court infers that the petitioners have suffered substantial loss. It is also pertinent to note that the petitioners are only striving to make good for the loss suffered for not utilizing the available period in terms of the Memo dated 17.12.2021 for the Covid-19 period and not looking up to accept the lucrative offer of the respondents. It is significant to note here that though the learned counsel for the petitioners is restricting his claim of getting the benefit of extension of license for a period of six months i.e. 180 days, the

learned Standing Counsel is not acceding for the same. In such a situation, it is not viable for this Court to work out the exact number of days that have been utilized by the petitioners and cannot accept the submissions of the respondent No.3 on the basis of unsigned memo filed on behalf of the respondents.

15. The learned Standing Counsel for the respondent No.3, on instructions, submits that the respondents are ready to grant license at the rate as accepted for the financial year 2020-2021. Considering the same, it appears that the respondent No.3 is negotiating the period of eligibility of petitioners for the remaining days and instead of answering the same had given an offer giving a go-bye to the Memo dated 17.12.2021. That apart, the Memo filed by the learned Senior Counsel with regard to the number of days that the temple was open and the said period has to be considered as utilized period of petitioners is unsustainable for the reason that the said calculation table is not signed by any of the authorized officer of the temple and is without any basis.

16. After hearing the learned counsel on either side, this Court is of the considered opinion that the temples cannot function with a commercial outlook to augment income and if there is requirement to meet the expenditure of temple, the State has to substitute for the same. It is an accepted custom that the temples are run on the donations offered by the devotees and the action of the respondents looking up ways and means for fetching more income on auctions would only suggest that the temples today

are run as business centers and such action of the respondents is deprecated.

17. Taking into consideration Covid-19 pandemic situation, the Government had extended the lease/license period for a total of 292 days vide Memo dated 17.12.2021 and having regard to the facts and circumstances of the case and to put a quietus to the present *lis*, this Court deems it appropriate to extend the benefit of extension of lease/license period for a period of (05) Five months to the petitioners commencing from 01.07.2024 to 30.11.2024.

18. Accordingly, these writ petitions are disposed of directing the respondents, particularly the 3rd respondent, to extend the lease period of the petitioners for a period of five months with effect from 01.07.2024 to 30.11.2024. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUSTICE N.V. SHRAVAN KUMAR

Date: 13.06.2024

**Note: Furnish C.C. forthwith.
L.R. copy be marked.**

**B/o.
SU/LSK***