(2002) 03 MAD CK 0132

In the Madras High Court

Case No : Writ Petition No. 21365 of 1994 and W.M.P. No''s. 32572 of 1994 and 22001 of 1995

Jagan Salts APPELLANT

Vs

The Govt. of Tamil Nadu RESPONDENT

Date of Decision : 01-03-2002

Acts Referred:

Citation : (2002) 03 MAD CK 0132

Hon'ble Judges : A.K. Rajan, J

Bench : Single Bench

Advocate : Muthuramanlingam, for the Appellant; G. Kavitha, GA, for the Respondent

Judgement

A.K. Rajan, J.—This writ petition is to quash the order passed by the first respondent in G.O. Ms.No.208, Revenue (D-1) Department, dated 12-3-1993.

2. The petitioner is a lessee of the Government land for the purpose of production of salt for a period of 20 years from 22-6-1992 over an extent of 90 acres in S.No.487 in the village of Kanjirankudi, and an extent of 40 acres in S.No.512 in the village of Thirupullani in Ramanathapuram Taluk, in all about 130 acres as per the lease agreement dated 22-6-1992 executed by the State of Tamil Nadu in favour of the petitioner. The annual lease rent as specified in G.O. Ms.No.1076, Revenue Department, dated 22-6-1992 and G.O. Ms.No.1157, Revenue Department, dated 22-8-1991 was being paid by the petitioner at the rate of Rs.2/- per acre and the royalty was Re.1 per tonne of salt produced subject to a minimum of Rs.25/- per acre. By the impugned order, the lease rent was increased from Rs.2/- to Rs.60/- per acre. Therefore, that increase has been challenged in this writ petition.

3. The Government has passed an order in G.O.Ms.No.242, Revenue Department, dated 14-5-1999, whereby the Government had examined the representation given by various authorities whereby the lease amount was reduced from Rs.60/- to Rs.5/- per acre and the royalty was fixed at Rs.2/- per

metric tonne of salt produced subject to a minimum of Rs.100/- per acre/per annum.

4. A perusal of the said Government Order in G.O. Ms.No.242, makes it clear that it has not withdrawn the earlier Government Order in G.O.Ms No.208 even though there is a recital in the preamble of the subsequent G.O.Ms.No.242 that the rates fixed by G.O.Ms.No.208 are considered to be heavy, the Special Commissioner and Commissioner of Land Administration has sent proposals on modifying the rates mentioned therein. This is only preamble which does not take the effect of modifying the Order already passed. A portion of G.O.Ms.No.242 reads as follows:-

"4. The Government have examined the suggestions of the Special Commissioner and Commissioner of Land Administration and Director of Industries and Commerce in greater detail and pass the following orders fixing uniform rate of lease and royalty on salt production:-

Lease rent: Rs.5/- per acre/per annum Royalty : Rs.2/- per metric tonne of salt produced subject to a minimum of Rs.100/- per acre/per annum. "

Therefore, this new Government Order will have effect of fixing the new rate as prescribed therein. This will not have any effect of modifying the rate fixed by the earlier Government Order. Therefore, the authorities are bound to collect the rent as per the earlier Government Order unless it is modified or withdrawn by the subsequent Government Order specifically stating to that effect, since, in the new Government Order, the fresh rates are only fixed and there is no mention about the old rates being modified and the rate fixed in the new G.O will apply from that date only and prior to that date, the earlier G.O will be in effect.

5.Learned counsel for the petitioner argued that the increase of lease amount from Rs.2/- to Rs.60/- is arbitrary and that the Government has no power to raise it arbitrarily. Learned counsel for the petitioner submitted that the lease rents that are collected by the Andhra Pradesh State as well as the Central Government, are only Rs.2/- and therefore, the Government of Tamil Nadu alone cannot charge the higher rate as lease amount from the petitioners. This argument cannot be accepted, as the State Government is a sovereign body and it has got a right to fix its own rate of rent when it grants any licence under the Government Grants Act.

6. Learned counsel for the petitioner also brought to the notice of this court an order passed in W.P.Nos.18908 and 18909 of 1994. This Court, speaking through D. Murugesan, J, in W.P. Nos.18908 and 18909 of 1994, by order dated 3-9-2001, passed an order that the respondents therein shall claim the lease of rent and royalty from the petitioners therein as per G.O. Ms.No.242, Revenue Department, dated 14-5-1999. There is no difficulty for this Court to follow the said earlier order of this Court. The State Government is a sovereign body which has got a right to fix its own rate of rent when it grants any licence under the Government Grants Act. The State Government fixed a particular rate as per its

G.O. Ms. No.208. The Government, by another G.O in G.O. Ms. No.242, fixed a different rate. The Government Orders will only have prospective effect. The new rate shall be collected only from the date of that G.O., namely, G.O. Ms. No.242 (14-5-1999). Insofar as the period between 12-3-1993 and 14-5-1999 is concerned, only the rates fixed by the Government in G.O. Ms. No.208, dated 12-3-1993 shall be payable. The writ petitions are disposed of accordingly. No costs. Consequently, W.M.P.Nos.32572 of 1994 and 22001 of 1995 are closed.

