

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 5952 of 2015 (T)

PETITIONER:

**DEEPU C.R, AGED 27 YEARS,
TC 36/1688(2), SRA-22, VALLAKKADAVU,
THIRUVANANTHAPURAM-695 008.**

**BY ADVS.SRI.K.L.NARASIMHAN
SRI.A.MOHAMMED FAIZAL
SRI.N.KRISHNA PRASAD**

RESPONDENTS:

- 1. TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY, DEVASWOM BUILDINGS,
NANTHANCOD, THIRUVANANTHAPURAM-695 003.**
- 2. DEVASWOM COMMISSIONER,
DEVASWOM BUILDINGS, NANTHANCOD,
THIRUVANANTHAPURAM-695 003.**
- 3. ASSISTANT DEVASWOM COMMISSIONER,
THIRUVANANTHAPURAM GROUP, DEVASWOM BUILDINGS,
FORT POST, THIRUVANANTHAPURAM-695 023.**

BY ADV. SRI.M.V.S.NAMBOOTHIRI, SC, TRAVANCORE DEVASWOM BOARD

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-03-2015,ALONG WITH WP(C).NO.6409 OF 2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

sts

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 TRUE COPY OF THE LIST OF REVISED SUB-GROUPS FINALIZED AS
PER PROCEEDINGS NO.ROC NO.1169/15/EST-1,DATED 09.02.2015 OF
THE SECRETARY OF THE FIRST RESPONDENT BOARD ALONG WITH
THE REVISED LIST OF TEMPLES
- EXT.P2 TRUE COPY OF THE TENDER NOTICE PUBLISHED IN THE WEB SITE
DATED 15.2.2015
- EXT.P3 TRUE COPY OF THE REPRESENTATION DATED 16.02.2015
- EXT.P4 TRUE COPY OF THE E-TENDER ADVERTISEMENT PUBLISHED IN THE
WEB SITE OF THE FIRST RESPONDENT ON 16.02.2015
- EXT.P5 TRUE COPY OF THE E-TENDER ADVERTISEMENT DATED 09.02.2015.

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.S.TO JUDGE

sts

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No. 5952 & 6409 OF 2015
.....

Dated this the 5th March, 2015

J U D G M E N T

The petitioners have approached this Court with a common grievance to the effect that the respondent Devaswom has sought to pursue e-tender with regard to various items to be supplied to the temples treating the entire group as a Unit, which is contrary to the practice which was being followed so far, effecting public auction on 'temple to temple' basis. By virtue of such a course, it is stated that the petitioners, who want to participate in the auction for a particular temple are supposed to satisfy a minimum amount of more than Rs.10 lakhs as stipulated in the Tender Notification, which is virtually more than several folds of the actual amount for a particular temple. Hence the grievance.

2. A statement has been filed by the respondent Devaswom in W.P.(C)No.5952 of 2015 seeking to sustain the course and proceedings, particularly with regard to 'e-tender', its advantage and consequences resulted with reference to available data. The relevant portions of paragraphs 6 and 7 are extracted below for convenience of reference:

"6. The decision to conduct e-tender on group basis is only temporary and experimental. In coming years, necessary changes would be introduced whereby e-tender would be introduced on a temple to temple basis. It is with the noble and laudable objective of avoiding unhealthy competition and other malpractices and for enhancing the income of the Board that e-tender has been introduced. When a system is newly introduced, there is every likelihood of irregularities and anomalies and the same can be removed only after a detailed study and by introducing sufficient infrastructure including sufficient computers with internet and sufficient staff with computer knowledge. There is no oblique reason for the Devaswom Board in introducing e-tender and there is also no oblique reason to conduct the e-tender on Group basis to avoid any person like the petitioner.

7.xx xx xx

As submitted earlier, feasibility of conducting of auction through e-tender in Group basis and also on temple to temple basis would be considered by the Board and necessary modification would be introduced after installing computers with internet facilities in all the temples and after

appointing sufficient staff with computer knowledge to operate the same. When a new system is introduced, certain anomalies may arise which can be rectified after careful analysis of the things."

3. A reply affidavit has been filed by the petitioners in the said case referring to some discrepancies; paragraphs 7 and 8 are relevant and are extracted below:

"7. It may be extremely relevant to point out that if grouping namely the classification by the respondent Board is the basis of adopting the modalities for e-tender, it does not stand to logic as to why "Kusacode" Sub-Group classified as a "Special Grade" was included in Ext.P5 for conducting e-tenders on an individual basis leaving out "Sree Varahom" temple which is the only other temple included in "Special Grade". The respondent Board ought to be permitted to justify the illegality of classifying two temples falling within the same grade for the purpose of conduct of e-tender. This will squarely amount to treating equally placed unequally. Therefore Ext.P4 is arbitrary, discriminatory, ill-conceived and malafide. In any event, temples classified as "Special

Grade” are to be given identical treatment. Any other classification would be unreasonable and arbitrary.

8. The statement in paragraph 4 is further belied for the reason that the temples included in Ext.P5 namely for the purpose of conducting e-tender on individual basis is wholly untenable. The sub-groups included in Ext.P5 to the extent it concerns the Thiruvananthapuram sub group are a) Sree Kanteswaram b) Chengaloor c) Kusacode d) Thaliyil. Going by Ext.P1, sub group (a) namely Sree Kanteswaram falls within the category “Administrative Officer”, Chengaloor falls within the Higher Grade, Kusacode falls within the “Special Grade” and Thaliyil falls within the “First Grade”. Therefore the reasons suggested in paragraph 4 of the statement is not only false but also misleading. This Honourable Court may take specific note of the same.”

4. Heard the learned Counsel for the petitioners and the learned Standing Counsel for the respondent Devaswom.

5. When W.P.(C) 5952 of 2015 came up for consideration on 25.02.2015, the following order was passed:

The learned Counsel for the petitioner points out that the grievance of the petitioner

is not against e-tendering sought to be pursued by the respondent Board, but with regard to the discriminatory tactics adopted in so far as different temples are concerned. In respect of various Temples, particulars of which are given in Ext.P4, the minimum quote is stipulated as Rs.12,22,210/- , whereas auction in respect of some other temples mentioned in Ext.P1, coming under the same Group are sought to be pursued on a 'Temple to Temple basis' as being done earlier.

The learned Standing Counsel seeks for time to get instructions. Post on 27.02.2015."

6. Today, when the matters are taken up for consideration, it is brought to the notice of this Court that the issue has already been considered by the Commissioner of Devaswom, who found it fit and proper to effect some modification and that an order bearing No.ROC.764/13/NS dated 03.03.2015 has been passed, whereby 'e-tender' has been restricted only in respect of temples where the minimum bid amount stipulated is above Rs.50000/-. It is clearly mentioned in the said order that, in respect of other temples where it is below Rs.50000/-, the same course and proceedings as to public auction which was being

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done till the last year, will be pursued . The learned Standing Counsel submits that the said order will be given effect to and that the petitioners could aspire for the said benefit. It is also brought to the notice of this Court that in the light of the order, dated 03.03.2015, fresh tender notification will be issued and the interested parties are at liberty to apply. The learned Counsel for the petitioners submits that the matter could be disposed of in terms of the above proceedings.

The writ petitions are disposed of accordingly.

P.R.RAMACHANDRA MENON
JUDGE

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