

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.8.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.15862 of 2015 and M.P.No.2 of 2015

M/s.Sivasakthi Murugan Traders
Rep. by its Proprietor
M.Vellamuthu Udayar
S/o.Murugasamy Udayar
No.32 Mari Street
Reddiyarpalayam Post
Puducherry.

.... PETITIONER

Vs.

1 The Director of Civil Supplies,
Department of Civil Supplies and Consumer
Affairs Puducherry.

2 The Tahsildar (Civil Supplies)
Pakkumudayanpet Puducherry.

3 The Regional Manager
Food Corporation of India Puducherry.

.... RESPONDENTS

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, Calling for the entire records relating to the Impugned Notification/Auction Notice of the 1st respondent in No.6-22/DCS & CA/Legal-III/B11/2012 dated 20.05.2015 published in Puducherry Edition in Dinamalar Newspaper dated 25.05.2015 and quash the same consequently directing the respondents to deliver 5.50 tons of Single Boiled A Grade Rice and Return back the EMD amount of Rs.70 000/- to the petitioner.

For Petitioner : Mr.C.Prakasam
For Respondents-1&2 : Mr.A.Tamilvanan, G.A.(Pondy)

O R D E R

With the consent of both side, the writ petition itself has been taken up for disposal.

2 Petitioner was a successful tenderor earlier. It appears that there was dispute between the petitioner and the respondents regarding supply of the rice. According to the learned counsel for the petitioner the respondents were insisting upon the petitioner to receive broken rice as against the quality one. Therefore, he could not comply with the terms of the tender. Thereafter, a fresh auction has been called for. Challenging the same, the petitioner has come forward to file the present writ petition.

3 Now, the grievance of the petitioner is that the earlier tender could not be complied with by the petitioner due to the attitude of the respondents.

4 This Court is afraid that the same cannot be a ground to challenge the auction notice issued by the respondents. If the petitioner has got grievance against the earlier tender that being contracted between the parties, it is well open to him to seek remedy under common law as the fresh tender is called for, for a fresh period. The earlier cause of action that perhaps might raise in favour of the petitioner cannot be a ground to challenge the subsequent one.

5 Thus, the writ petition stands dismissed with liberty to the petitioner to work out remedy in the manner known to law. The respondent shall consider return of EMD to the petitioner if otherwise permissible in law. No costs. Consequently, connected M.P.No.1 of 2015 is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1 The Director of Civil Supplies,
Department of Civil Supplies and Consumer
Affairs Puducherry.
- 2 The Tahsildar (Civil Supplies)
Pakkumudayanpet Puducherry.
- 3 The Regional Manager
Food Corporation of India Puducherry.

+ 1 cc to Mr.A. Tamilvanan, Advocate Sr.42897

+ 1 cc to Mr.C. Prakasam, Advocate SR.43144

W.P.No.18588 of 2015
and M.P.No.1 of 2015

CTK(CO)

EU 03.09.2015