

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 6.11.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.NO.34525 OF 2015

Sree Balaji Transport
represented by its Partner
P.S. Selvaraj

... Petitioner

Vs

1. The Managing Director,
Tamilnadu Cooperative Marketing
Federation Limited,
91, St. Mary's Road,
Chennai 600 018.

2. The Regional Manager,
Tamilnadu Cooperative Marketing
Federation Limited,
192 Old Chennimalai Road,
Erode-2.

3. Dhana Industries,
SIDCO Industrial Estate,
Paramathi Road,
Namakkal 637 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Mandamus to direct the respondents 1 and 2 herein to consider the petitioner's representation dated 9.10.2015 and forbear the respondents 1 and 2 herein, their men, agents, servants, subordinates or any one authorised by them or claiming through them from, in any manner, engaging the services of the 3rd respondent herein or any other Contractor for transportation of Fertilizers in Erode Division during the extended term of the contract, viz., up to 31.12.2015 to the detrimental of the petitioner.

For Petitioner : Mr.AR.L.Sundaresan , Senior Counsel
for Mr. R. Pandiyaraj

For Respondents : Mr.L.P.Shanmughasundaram
Special Government Pleader (R1 and R2)

ORDER

The petitioner has filed this Writ Petition praying for issuance of Writ of Mandamus to direct the respondents 1 and 2 herein to consider the petitioner's representation dated 9.10.2015 and forbear the respondents 1 and 2 herein, their men, agents, servants, subordinates or any one authorised by them or claiming through them from, in any manner, engaging the services of the 3rd respondent herein or any other Contractor for transportation of Fertilizers in Erode Division during the extended term of the contract, viz., up to 31.12.2015 to the detrimental of the petitioner.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for respondents 1 and 2.

3. The petitioner is carrying on business as Handling and Transport Contractor for various Governmental and Quasi Governmental Agencies. The respondents herein have invited tenders for movement of Chemical Fertilizers for the year 2014-2015. As per clause 10 of the Tender conditions, during the tenure of the tender, in case, the respondent desired, it could be extended for a further period of six months on the same terms and conditions and the contractor is bound to perform the contract for such further period of six months and would not be entitled to any additional benefit for the same.

4. The petitioner participated in the said Tender and was L1 for Erode Region and the 2nd respondent issued Contractor Appointment Order vide his proceedings dated 10.7.2014 appointing the petitioner as the Transport Contractor for movement of Fertilizers for the period of one year from 1.7.2014 to 30.6.2015, pursuant to which, a Lorry Transport Contract Agreement was entered into between petitioner and 2nd respondent on 1.7.2014. The petitioner had been performing its duties as Transport Contractor for the period from 1.7.2014 to 30.6.2015. As per clause 15 of the said agreement, in case, if the respondent desired so, from the expiry of the period of one

year, the contract could be extended for a period of six months and clause 16 provides that subject to the acceptance of such extension by the contractor, the contractor shall perform the agreement during the extended period.

5. As per clause 10 of the tender and clause 15 of the Agreement, the 2nd respondent herein vide his letter dated 29.4.2015 proposed to extend the term of the contract by a further period of 6 months from 1.7.2015 and accordingly, the 1st respondent vide his proceedings dated 23.7.2015 followed by proceedings dated 3.8.2015 of the 2nd respondent, extended the Transport Contract in favour of the petitioner by a further period of six months viz., from 1.7.2015 to 31.12.2015 on the same terms and conditions.

6. Learned counsel for the petitioner submitted that while the tenure of contract is in existence till 31.12.2015, it appears that the 2nd respondent herein has identified some third person to do the works under the contract and he has not allotted any work to the petitioner from 8.10.2015 in spite of the extension that has been given to the petitioner till 31.12.2015 and the 2nd respondent has not issued any communication in writing to the petitioner stating reasons as to why the services of the petitioner are not utilized during the extended period of contract. Under the circumstances, the petitioner made a written representation to the 1st respondent herein on 9.10.2015 stating that the petitioner learnt that a new Contractor by name M/s.Dhana Industries, the 3rd respondent herein has been appointed with effect from 7.10.2015 which is contrary to clause 15 of the agreement entered into between the petitioner and the respondent. It is his further submission that the petitioner had incurred heavy expenditure for continuance of performance of the contract and if the work is now allotted to any third person, he would suffer heavy financial loss.

7. He further submitted that though larger relief has been sought for in the writ petition, it would be suffice if the pending representation, dated 9.10.2015 is directed to be considered by the respondent No.2.

8. The grievance of the petitioner is that though the period of contract is in existence till 31.12.2015 for transportation of Fertilizers in Erode District, the respondents herein have stopped to utilize the services of the petitioner and attempts are being made to engage a third party.

9. Considering the said submission and taking note of the fact that the representation, dated 9.10.2015 is still pending consideration of the respondent No.2, a direction is issued to the respondent No.2 to pass appropriate orders on the representation, dated 9.10.2015, on merits and in accordance with law within a period of ***two weeks** from the date of receipt of a copy of this order.

10.The Writ Petition is disposed of with the above direction. No costs. Consequently, the connected M.P.No.1 of 2015 is closed.

-Sd/-

Assistant Registrar(CS III)

***Corrected as per order
dt:27/11/2015 and made
herein**

-s/d-

**Assistant Registrar(CSIII)
dt:27/11/2015**

//True Copy//

Sub Assistant Registrar

msr

To

1. The Managing Director,
Tamilnadu Cooperative Marketing
Federation Limited,
91, St. Mary's Road,
Chennai 600 018.
2. The Regional Manager,
Tamilnadu Cooperative Marketing
Federation Limited,
192 Old Chennimalai Road,
Erode-2.

+1cc to Mr.R. Pandiyaraj, Advocate, S.R.No.*64640

W.P.NO.34525 OF 2015

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