

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.Nos.10369 of 2016
and W.M.P.Nos.9150 and 9151 of 2016

A.Natarajan

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Petitioner

Vs

1.The Commissioner,
Erode Corporation,

2. The Director of Municipalities,
Ezhilagam, Madras - 5,

3. The Government of Tamil Nadu,
repd. By the Secretary to Government,
Principal Administration and Water
Supplies Department, Fort St.George,
Chennai - 600 009,

4. M/s.Seven Star Enterprises,
represented by its Managing Director,
S.M.A.Viswanathan,
S/o.Annamuthu,
4/3, Bharathiyar Street,
Angammal Colony, Salem - 9.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified Mandamus to call for the records on the file of the 1st respondent in resolution No.196, dated 23.02.2016 and quash the same as illegal, incompetent and unconstitutional and further direct the 1st respodnent to float a tender in terms of Tamil Nadu Transparency in Tenders Act in so far as the development of infrastructure of VOC Park at Erode is concerned.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.M.Rajamathivanan
for R.1
Mr.M.L.Mahendran,
Govt.Advocate for R.2 and R3

ORDER

Heard the learned counsel for the petitioner, Mr.M.Rajamathivanan, learned counsel accepting notice for the 1st respondent, and Mr.M.L.Mahendran, learned Government Advocate accepting notice for the 2nd respondent.

2. The petitioner has filed this writ petition to quash the resolution No.196, dated 23.02.2016 passed by the 1st respondent Municipal Corporation, by which, the 1st respondent Municipality appears to have resolved to develop the VOC Park within the Corporation limits on a BOOT (Built Own Operate and Transfer) basis and has identified the 4th respondent as the person, who will be carrying on the said work. The petitioner would state that the manner in which the 1st respondent Municipal Corporation has proceeded with the matter in shortlisting only the 4th respondent is illegal since the 1st respondent is bound by the provisions of the Tamil Nadu Transparency in Tenders Act, 2000, (in short, 'the Act') and it is mandatory for them to float tenders and thereafter allot the work to the successful tender. Therefore, it is stated that the said resolution should be quashed.

3. Mr.M.Rajamathivanan, learned Standing counsel appearing for the 1st respondent has filed an affidavit sworn to by the Commissioner, which reads as follows:

'I submit that the above writ petition is filed by the petitioner to challenge the resolution No.196 dated 23.02.2016 of the Municipal Corporation council.

I further submit that, the resolution No.196 Dated: 23/02/2016 with its contents will be submitted to the Government for getting the in principle clearance for floating open tenders for developing and maintaining the VOC Park as done in the case of Salem Corporation Anna Park vide G.O.Ms.No.19 Dated: 17/09/1999. After getting the clearance from Government, tenders will be floated as per the provisions of the Tender Transparency Act 2000 of Tamilnadu.'

4. In terms of the above affidavit, it appears that the 1st respondent has taken a decision to float open tenders for developing and maintaining the VOC Park as done in the case of Salem Corporation Anna Park vide G.O.Ms.No.19 dated 17.9.1999 after getting clearance from the Government and following the provisions of the Act. However, it has to be pointed out that

Resolution No.196 dated 23.2.2016 reads as if the 4th respondent has been shortlisted to do the work. Thus, in the light of the undertaking given by the 1st respondent before this Court, necessarily, resolution No.196 dated 23.2.2016 read down to mean that in principle the 1st respondent Municipal corporation have taken a decision to float open tenders for developing and maintaining the VOC park.

5. In the light of the above, the writ petition is disposed of by directing the 1st respondent to address the Government seeking for approval to float open tenders for developing and maintaining the VOC Park and on approval being granted, the 1st respondent shall float open tenders strictly following the provisions of the Tamil Nadu Transparency in Tenders Act, 2000 and proceed further in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

To:

1. The Commissioner,
Erode Corporation,
2. The Director of Municipalities,
Ezhilagam, Madras - 5,
3. The Secretary to Government,
Principal Administration and Water
Supplies Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009,

+1 cc to Mr.V.Raghavachari, Advocate, sr.17918
+1 cc to Mr.M.Ragamathivanan, Advocate, sr.17674
+1 cc to Government Pleader, sr.18042

WP.No.10369/2016

scd co
kra 31.03.2016