

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.04.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.11834 of 2016

and

W.M.P.Nos.10207 and 10208 of 2016

V.Karuppusamy

...Petitioner

Vs.

1. Deputy Registrar of Cooperative Societies (PDS)
/President,
Lorry Contract Tender Committee,
Pollachi, Coimbatore District.

2. The Managing Director/
Deputy Registrar of Cooperative Societies,
Pollachi Consumer Coop. Wholesale Stores Ltd.,
No.82, Palladam Road,
Mahalingapuram Post, Pollachi,
Coimbatore District - 642 002.

3. V.Sethuraman
(R-3 impleaded as per order passed today
in W.M.P.No.12431 of 2016 of this W.P.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the second respondent's tender notification for the year 2016-17, dated 02.03.2016, published in Maalai Malar News Paper, dated 03.03.2016, for the contract of short term hiring of lorries for the year 2016-17, and to quash the same as illegal, and against the provisions contained in Section 21 of the Tamil Nadu Transparency of Tender Rules, 2000.

For Petitioner : Mr.E.Pragasam
For Respondents 1 and 2
: Mr.L.P.Shanmugasundaram
Special Government Pleader
for Cooperative Society
For Respondent-3: Mr.G.Ethirajulu

O R D E R

Heard learned counsel appearing for the parties.

2. The petitioner has come forward with this Writ Petition, seeking for issuance of a writ of certiorari to quash the proceedings passed by the second respondent, which is a tender notification, dated 02.03.2016, for the year 2016-17, calling for tenders for Short Term Hiring of Lorries for the said year.

3. According to the petitioner, the impugned tender notification cannot be proceeded with, since the Model Code of Conduct issued by the Election Commission came into force on 05.03.2016, and the tender notification, having been issued on 02.03.2016, could not have been proceeded with further, since the last date for submission of tenders was 18.03.2016, which falls within the period, when the Election Commission's Model Code of Conduct is in force. It is seen that the impugned tender was called for, pursuant to the direction issued by this Court in W.P.No.7640 of 2016, dated 02.03.2016, filed by one M.James, in which, the learned counsel appearing for the present petitioner had appeared, and they sought for quashing the tender notification, dated 22.02.2016, on the ground that, it has been issued in violation of Rule 20 of the Tamil Nadu Transparency in Tender Rules, 2000. The Court, after hearing the learned Special Government Pleader for the respondent/Cooperative Society herein, by order, dated 02.03.2016 closed the Writ Petition with the following observation/direction:-

"Today, when the matter is taken up for consideration, the learned Special Government Pleader for respondents, submitted that the respondents would publish fresh tender notification as per Rule 20 of Tamil Nadu Transparency in Tender Rules, 2000, on 03.03.2016, by fixing the last date for submission of Tenders as 18.03.2016. He further submitted that the respondents will not proceed with the tender notification for the year 2016-17, dated 22.02.2016, published in the Maalai Malar Newspaper, dated 23.02.2016.

Hence, recording the submissions of the learned counsel appearing for the respondents, this Writ Petition is closed. No costs. Consequently, connected Miscellaneous Petitions are closed."

4. Pursuant to the above observation/direction, the present tender notification has been issued, and last date for submission of tender was fixed as 18.03.2016. The present petitioner is also one of the participants in the tender, and he has now filed this Writ Petition, stating that the tender should not be processed, since the Model Code of Conduct is in force. Since the allegation raised by the petitioner is on technical ground, the same was rejected. In any event, since the Model Code of Conduct is in force as on date, the respondents 1 and 2 cannot proceed with the impugned tender till the Elections are over. However, on the ground raised, the tender need not be quashed, as it has been in compliance of the direction issued in the earlier Writ Petition. Therefore, the Writ Petition is disposed of with a direction to the respondents 1 and 2 to proceed with the tender after elections are over, from the said stage, in which, it has been stopped. It is onceagain clarified that the impugned tender can be proceeded with, from the stage, from where it has been stopped, and fresh tenders need not be called for.

5. With the above direction and observation, the Writ Petition is disposed of . No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. Deputy Registrar of Cooperative Societies (PDS)
/President,
Lorry Contract Tender Committee,
Pollachi, Coimbatore District.

2. The Managing Director/
Deputy Registrar of Cooperative Societies,
Pollachi Consumer Coop. Wholesale Stores Ltd.,
No.82, Palladam Road,
Mahalingapuram Post, Pollachi,
Coimbatore District - 642 002.

+1 cc to Mr.L.P.Shanmugasundaram Advocate sr.26193

+1 cc to Mr.E.Pragasam Advocate sr.26270

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aa18/05/2016