

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.09.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice R.MAHADEVAN

W.P.No.18302 of 2015

1. The Blue Mountain Forest Contractors' Association,
rep. by its President R.Sathappan
No.76, Main Bazaar,
Ootacamund 643 001.
Nilgiris.

2.R.Sathappan ... Petitioners

Versus

1.State of Tamil Nadu
rep. by its Principal Secretary to Government
Environment and Forest Department,
Fort St.George,
Chennai 600 009.

2.The Principal Chief Conservator of Forest,
Chennai 600 015.

3.Tamil Nadu Newsprint and Papers Ltd.,
Guindy, Chennai 600 032.
rep by its Managing Director

4.Seshasayee Paper and Boards Ltd.,
Pallipalayam,
Namakkal District.
Rep. by its Managing Director.

5.Industrial Co-operative Tea Factories,
Coonoor 643 101, Nilgiris,
represented by its Managing Director.

6.Palanisamy, Lessee,
M/s.TAN India Ltd.,
Mettupalayam.

7.Tamil Nadu Tea Plantation Corporation Ltd.,
Coonoor, represented by its Managing Director. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in G.O. (D).No.114 dated 04.06.2015 and quash the same and consequently direct the 1st respondent to conduct public auction for the allocation of the expected yield of Bluegum Pulpwood, Bluegam Lop and Top, Wattle Pulpwood, Wattle Lop and top and Wattle Bark from the Reserved Forests of Nilgiris District in accordance with law.

For Petitioner : Mr.Niranjan Rajagoplan

For Respondents : Mr.M.Santhanaraman
AGP (F) for R.1, R.2 and R.7
Mr.A.S.Baalaji for R.5
Mr.Shivakumar for R.3
No appearance for R.4 and R.6

O R D E R

(The Order of the Court was made by
The Hon'ble The Chief Justice)

The petitioners before the Court are the Forest Contractors Association and seek to assail G.O.(D).No.114 dated 04.06.2015 in respect of allocation of expected yield of Bluegum Pulpwood, Bluegam Lop and Top, Wattle Pulpwood, Wattle Lop and top and Wattle Bark from the Reserved Forests of Nilgiris District and instead, direct public auction for the same.

2. The stand of the State Government is that their experience found that cartelization takes place, benefiting the Members of the petitioner -Association and that is why the present petition has been filed. The say of the learned Additional Government Pleader for the Forest Department is that the intent is to remove middlemen by giving the product to the end user. This would also generate extra revenue in the form of Sales tax, excise duty etc. The Members of the petitioners' Association are really interested only in small portion being allotted and do not have the wherewithals available for felling and removing these trees. The trees are not, it is urged, natural forest, but man planted trees and the forest policy now requires removing of such exotic trees and to restore the endemic trees. Thus, it is not a typical case of deforestation.

3. Learned counsel for the petitioner cannot dispute that the respondents are well within the policy domain to decide to give the product to the end user, but submits that the same would also require the parameters of transparency, to be met and the fact that the petitioner association has filed the petition does not take away the obligation of the various department to have a transparent procedure.

4. We are in limited agreement with the submission of the learned counsel for the petitioner - that there has to be a transparent procedure for allotment to the end user. Learned Additional Government Pleader has clarified that the allocation is made by the department, while the pricing is fixed by the Committee of Officers, whereafter the contract is entered into. Such pricing is fixed on a yearly basis and not a contract to contract basis, an aspect with which we cannot find fault. However, all end users must be made aware as to the availability of trees which are to be allocated in the year and a procedure prescribed as to how this would be dealt with, if the number of persons claiming are more. This is so, as at present, the process is not as if at one go the allocation takes place, but it is need based. Thus, an end user can approach the department as and when it needs the material from the forest produce. We thus, direct the State Government that for future, it should be ensured that these aspects of transparency are attended to and it is to be on the website of the department for the benefit of all the end users.

5. The Writ petition is closed with the aforesaid observation, leaving the parties to bear their own costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ksr

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To

1.The Principal Secretary to Government
Environment and Forest Department, Fort St.George, Chennai 600
009.

2.The Principal Chief Conservator of Forest, Chennai 600 015.

3.Tamil Nadu Newsprint and Papers Ltd., Guindy, Chennai 600 032.

4.The Managing Director, Seshasayee Paper and Boards Ltd.,
Pallipalayam, Namakkal District.

5.The Managing Director, Industrial Co-operative Tea Factories,
Coonoor 643 101, Nilgiris.

6.The Managing Director, Tamil Nadu Tea Plantation Corporation
Ltd.,
Coonoor.

+1 cc to M/s.G.R.Associates sr 51031

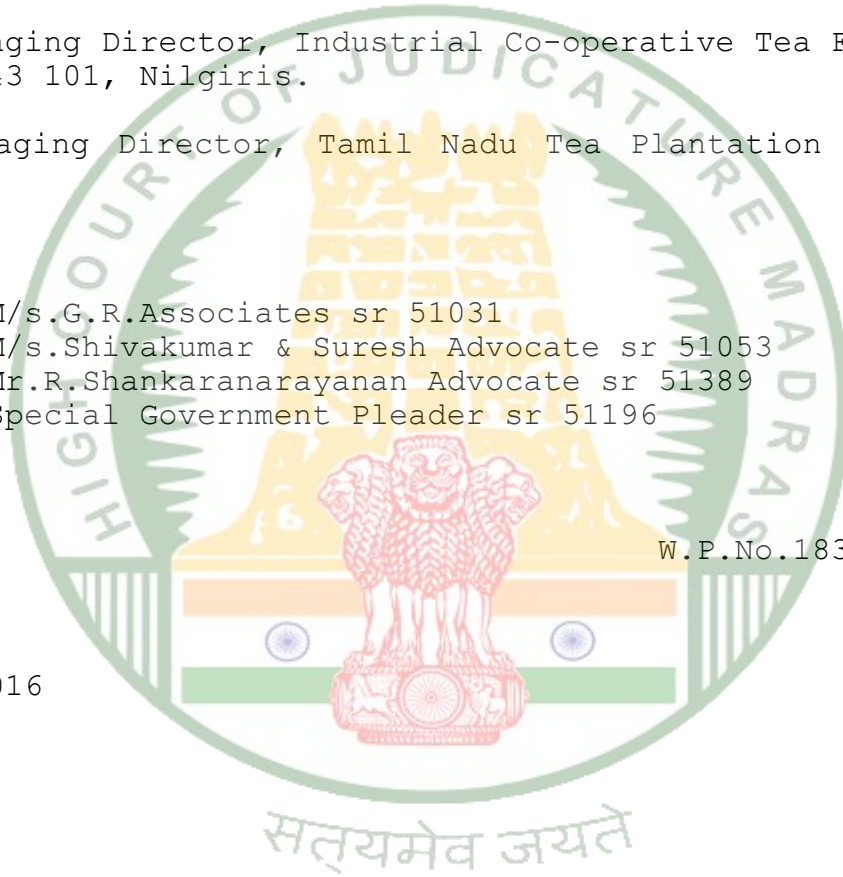
+1 cc to M/s.Shivakumar & Suresh Advocate sr 51053

+1 cc to Mr.R.Shankaranarayanan Advocate sr 51389

+1 cc to Special Government Pleader sr 51196

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