

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.19933 of 2015

C.Theerthagiri

.. Petitioner

Vs.

1. Anna University,
rep by its Registrar,
Anna University,
Chennai-600 025.
2. Vice Chancellor,
Anna University,
Chennai-600 025.
3. Professor and Estate Officer,
Anna University,
Chennai-600 025.
4. Principal Secretary to Government,
Higher Education Department,
Fort St. George,
Chennai-600 009.
5. Public Information Officer and
Assistant Registrar (Salary),
Anna University,
Chennai-600 025.

.. Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus, appointing any independent authority to enquire into the process of selection of tenders for the first respondent during the entire tenure of the third respondent to find out all / any irregularities committed by him and to recommend suitable action to be initiated to against the 3rd respondent and all other officials involved and colluded in such irregularities.

For Petitioner : Ms.Vanathi Srinivasan

For Respondents: Mr.S.Gomathinayagam, A.A.G.
assisted by Mr.M.Vijayakumar
for RR1 to 3
Mr.R.Ravichandran, AGP for RR4 and 5

ORDER

Heard. This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, appointing any independent authority to enquire into the process of selection of tenders, for the first respondent, during the entire tenure of the third respondent, to find out the irregularities committed by him and to recommend suitable action to be initiated against the 3rd respondent and all other officials involved and colluded in such irregularities.

2 It has been stated that the petitioner is a Class-1 contractor, registered with the Public Works Department. He has been executing various civil works in the respondent University, for the last 20 years. The main contention raised on behalf of the petitioner, in the present writ petition, is that the third respondent has been allotting contracts to some persons, who are close to him, without following the provisions of the Tamil Nadu Transparency in Tenders (Public Private Partnership Procurement) Rules, 2012, and the Government Order, in G.O.Ms.No.307, Finance (Salaries) Department, dated 1.11.2011, whereby guidelines have been issued with regard to the tender advertisement. In the said Government Order, it has been stated that the tender notices ought to be advertised in various newspapers, based on the financial limits provided therein. However, the third respondent has been allotting the contracts to various persons, without following the guidelines issued in the said Government Order, valuing the contract works below Rs.10 lakhs, in order to avoid advertising the works in the newspapers, as prescribed under the said Government Order. Thus, it is clear that the act of the third respondent is a colourable exercise of power.

3 It has been further contended that the petitioner, who is a Class-1 contractor, is not in a position to participate in the tender process, as he does not know about the awarding of the contracts, as no advertisements are made in the newspapers, as prescribed in the Government Order, dated 1.11.2011. The contracts are given to same persons, repeatedly, showing the contract works to be below Rs.10 lakhs in value. In such circumstances, the petitioner has preferred the present writ petition before this Court, praying that an independent authority may be appointed to enquire into the process of selection of the tenders, in respect of the works of the first respondent University and to take suitable action against the third respondent and the other officials, who had been committing the irregularities in the allocation of the contract works to various persons.

4 In the counter affidavit filed on behalf of the first, second, third and fifth respondents, the allegations made by the petitioner have been denied, as false and frivolous.

5 The learned counsels appearing on behalf of the respondents have contended that the contracts, in respect of the works relating to the first respondent University, are given to various persons, in a transparent manner. There is no fraud or irregularity committed by the third respondent or the other officials in conducting the tender process for the allotment of the contract works. It has been stated that the Syndicate of the first respondent University has approved, to follow the Government Order, in G.O.Ms.No.307, Finance (Salaries) Department, dated 1.11.2011, by way of a resolution passed by it. Therefore, it cannot be alleged that the contract works, relating to the first respondent University, are being allotted, without following the Government Order, dated 1.11.2011.

6 It has been further stated that the petitioner has not been in a position to show that the third respondent has been allotting tenders only to favour certain persons, contrary to the guidelines issued, under the Government Order, in G.O.Ms.No.307, Finance (Salaries) Department, dated 1.11.2011. Therefore, the writ petition filed by the petitioner is liable to be dismissed, in limine.

7 In view of the submissions made on behalf of the parties concerned and on perusal of the records available, this Court is not inclined to accept the contentions raised on behalf of the petitioner, alleging that the third respondent has been allotting tender contracts only in favour of certain persons, without following the guidelines issued in the Government Order, dated 1.11.2011. Sufficient evidence has not been placed before this Court to prove that the allotment of the contract works, relating to the first respondent University, has been done in a mala fide manner. It is also noted that the Syndicate of the first respondent University has approved the guidelines issued in G.O.Ms.No.307, Finance (Salaries) Department, dated 1.11.2011. There is no record to show that the said guidelines prescribed in the Government Order have been flouted, either by the third respondent or by the other officials of the first respondent University. In such circumstances, this Court is of the considered view that the present writ petition filed by the petitioner is liable to be dismissed, as it is devoid of merits. Hence, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Registrar,
Anna University,
Anna University,
Chennai-600 025.
- 2.The Vice Chancellor,
Anna University,
Chennai-600 025.
- 3.Professor and Estate Officer,
Anna University,
Chennai-600 025.
- 4.Principal Secretary to Government,
Higher Education Department,
Fort St. George,
Chennai-600 009.
- 5.The Public Information Officer and
Assistant Registrar (Salary),
Anna University,
Chennai-600 025.

+1cc to M/s. M. Vijaykumar, Advocate, S.R.No.39646
+1cc to the Government Pleader, S.R.No.39994

W.P.No.19933 of 2015

CTK(CO)
EU 1.08.16

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