

In the High Court of Judicature at Madras

Dated : 15.6.2016

Coram

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition Nos.37490 to 37493 of 2015 &
all connected pending MPs

C.Palaniappan ...Petitioner in
WP.37490/2015

M.Rabiyudeen ...Petitioner in
WP.37491/2015

B.Devendran ...Petitioner in
WP.37492/2015

V.Vijayaraj ...Petitioner in
WP.37493/2015

Vs.

1.The Tamil Nadu State Marketing
Corporation Limited (TASMAC),
Rep. by the Managing Director,
"Thalamuthu Natarajan Maaligai"
Gandhi-Irwin Road, Chennai-8.

2.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation
Limited (TASMAC), "L.L.A Buildings"
Anna Salai, Chennai-2.

3.The District Manager, Tamil Nadu State
Marketing Corporation Limited
(TASMAC), Kancheepuram (North),
Industrial Estate, Thirumazhisai
Kancheepuram District-600123.

...Respondents

PETITIONS under Article 226 of The Constitution of India
praying for the issuance of Writs of Certiorarified Mandamus
(i) to call for the records in respect of the Tender
Notification issued by the 3rd respondent as published in the
Tamil Daily viz. Dinamani dated 3.11.2015 pertaining to the
issuance of Bar License at Kancheepuram (North) District of
Tamil Nadu State Marketing Corporation Limited (TASMAC) and the

consequential fixation of upset price in respect of Shop No.4486, quash the same in so far as it relates to the petitioner's Shop No.4486 is concerned and direct the respondents to fix the upset price based on the previous year sale i.e. 2014-15 (2.5% of the total sale without taking into account the growth rate) and consequently proceed with the issuance of Bar License in respect of Shop No.4486 (WP.No.37490 of 2015); (ii) to call for the records in respect of the Tender Notification issued by the 3rd respondent as published in the Tamil Daily viz. Dinamani dated 3.11.2015 pertaining to the issuance of Bar License at Kancheepuram (North) District of Tamil Nadu State Marketing Corporation Limited (TASMAC) and the consequential fixation of upset price in respect of Shop No.4108, quash the same in so far as it relates to the petitioner's Shop No.4108 is concerned and direct the respondents to fix the upset price based on the previous year sale i.e. 2014-15 (2.5% of the total sale without taking into account the growth rate) and consequently proceed with the issuance of Bar License in respect of Shop No.4108 (WP.No.37491 of 2015); (iii) call for the records in respect of the Tender Notification issued by the 3rd respondent as published in the Tamil Daily viz. Dinamani dated 3.11.2015 pertaining to the issuance of Bar License at Kancheepuram (North) District of Tamil Nadu State Marketing Corporation Limited (TASMAC) and the consequential fixation of upset price in respect of Shop No.4488, quash the same in so far as it relates to the petitioner's Shop No.4488 is concerned and direct the respondents to fix the upset price based on the previous year sale i.e. 2014-15 (2.5% of the total sale without taking into account the growth rate) and consequently proceed with the issuance of Bar License in respect of Shop No.4488 (WP.No.37492 of 2015); and (iv) to call for the records in respect of the Tender Notification issued by the 3rd respondent as published in the Tamil Daily viz. Dinamani dated 3.11.2015 pertaining to the issuance of Bar License at Kancheepuram (North) District of Tamil Nadu State Marketing Corporation Limited (TASMAC) and the consequential fixation of upset price in respect of Shop No.4504, quash the same in so far as it relates to the petitioner's Shop No.4504 is concerned and direct the respondents to fix the upset price based on the previous year sale i.e. 2014-15 (2.5% of the total sale without taking into account the growth rate) and consequently proceed with the issuance of Bar License in respect of Shop No.4504 (WP.No.37493 of 2015).

For Petitioners : Mr.S.Swaminathan

For Respondents : Mr.B.Nedunchezhiyan

COMMON ORDER

Heard both. By consent, the writ petitions are taken up for final disposal.

2. In this writ petitions, the petitioners seek to quash the tender notification issued by the third respondent and consequently, direct the respondents to fix the upset price for the shops of the respective petitioners based on the previous year sale.

3. An identical prayer was considered by this Court in a batch of cases, which were filed during 2014. After hearing the parties in detail, the writ petitions were disposed of by a common order dated 23.12.2014, by directing the respondents to consider the petitioners' representations in an objective manner and pass appropriate orders.

4. The petitioners herein also sought for a similar relief in these writ petitions. However, these writ petitions are pending and an order of status quo was granted on 25.11.2015 directing the respondents to maintain status quo in respect of the shops of the petitioners till 30.11.2015 and in the interregnum, the petitioners are operating the shops by paying the charges at the old rate. In my view, by efflux of time, the challenge to the impugned proceedings has become academic.

5. In the counter affidavits filed by the respondents in the earlier writ petitions, it has been pointed that the respondents cannot fix the upset price based on the whims and fancies of the individuals, as it would result in loss of revenue.

6. The stand taken by the respondents is perfectly justified, since the respondents are bound to realise best possible revenue to the Government, while granting contracts in favour of an individual. Since the tender notification was issued in 2015, this Court is of the view that the respondents should take immediate steps for fixing the upset price in a proper manner and bring the shops for re-auction. While doing so, the representations given by the petitioners shall also be taken into consideration. The above direction shall be complied with by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

7. The writ petitions are dismissed with the above direction. No costs. Consequently, all connected pending MPs are also dismissed.

Sd/-

Assistant Registrar(CCC)

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//True Copy//

Sub Assistant Registrar

To

1.The Managing Director,
Tamil Nadu State Marketing Corporation Limited
(TASMAC), "Thalamuthu Natarajan Maaligai" Chennai-8.

2.The Senior Regional Manager, Tamil Nadu State Marketing
Corporation
Limited (TASMAC),
"L.L.A Buildings", Anna Salai, Chennai-2.

3.The District Manager, Tamil Nadu State Marketing Corporation
Limited
(TASMAC),
Kancheepuram (North), Industrial Estate, Thirumazhisai
Kancheepuram District-600123.

1 cc to Mr.S.Swaminathan, Advocate, sr.32512

1 cc to Mr.B.Neduchezhiyan, Advocate, sr.33043

WP.Nos.37490 to 37493 of 2015
and all connected pending MPs

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kra 29.06.2016

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