

In the High Court of Judicature at Madras

Dated : 15.6.2016

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.39870 & 39871 of 2015 &
MP.Nos.1,1,2 and 2 of 2015

V.Sundararaj

...Petitioner in
both WPs

Vs.

1.The Tamil Nadu State Marketing
Corporation Limited (TASMAC),
Rep. by its Managing Director,
CMDA Tower, Egmore, Chennai-8.

...R1 in both
WPs

2.The District Manager-cum-Deputy
Collector, Tamil Nadu State
Marketing Corporation Limited,
Coimbatore (North), Coimbatore.

...R2 in WP.
No.39870/2015

3.The District Manager-cum-Deputy
Collector, Tamil Nadu State
Marketing Corporation Limited,
Coimbatore (South), Coimbatore.

...R2 in WP.
No.39871/2015

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus (ii) to call for the records of Clause 2(ii) and its proviso of the Tender Notification dated 1.12.2015 issued by the 2nd respondent published in Newspaper daily DAILY THANTHI for collection of empty bottles and for selling of eatables in the TASMAC Bar for the year 2015-2016 in Coimbatore District, quash the same and consequently direct the 2nd respondent to fix the minimum monthly upset price by taking into account the sales statistics for the year 2014-2015 and take pragmatic decision in the matter (WP.No.39870 of 2015); and (ii) to call for the records relating to Bar Upset Price fixed for the month of October 2015 and Clause 2(ii) and its proviso of the Tender Notification dated 2.12.2015 issued by the 2nd respondent published in Newspaper daily DAILY THANTHI for collection of empty bottles and for selling of eatables in the TASMAC Bar for the Year 2015-2016 in Coimbatore District, quash the same and consequently direct the 2nd respondent to fix the minimum monthly upset price by

taking into account the sales statistics for the year 2014-2015 and take pragmatic decision in the matter (WP.No.39871 of 2015).

For Petitioner : Mr.N.Umapathi

For Respondents : Mr.B.Nedunchezhiyan

COMMON ORDER

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

2. In these writ petitions, the petitioner seeks to quash a particular portion of the tender notification issued by the second respondent and consequently, direct the second respondent to fix the upset price for the shops of the petitioner 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 petitioner herein also sought for a similar relief in these writ petitions. However, these writ petitions are pending without any interim order and in the interregnum, the petitioner is 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 second respondent should take immediate steps for fixing the upset price in a proper manner and bring the shops for re-auction. While doing so, any representation given by the petitioner shall also be taken into consideration. The above direction shall be complied with by the second respondent 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/-
Asst.Registrar (CS VII)

/true copy/

To Sub Asst. Registrar

- 1.The Tamil Nadu State Marketing Corporation Limited (TASMAC),
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- 2.The District Manager-cum-Deputy Collector, Tamil Nadu State
Marketing Corporation Limited, Coimbatore (North), Coimbatore.
- 3.The District Manager-cum-Deputy Collector, Tamil Nadu State
Marketing Corporation Limited, Coimbatore (South), Coimbatore.

1 cc to Mr.B. Nedunchezhiyan, Advocate, Sr. 33039

WP.Nos.39870 & 39871 of 2015
and MP.Nos.1,1,2 & 2 of 2015

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