

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.38887 of 2016
&
WMP.No.33321 of 2016

M/s.Tiruvallur District Goods
Transport Services Indl. Cooperative
Society Ltd, rep.by its President
Gnanasekaran, DIC Building,
6D, 2nd Main Road, Ambattur
Industrial Estate, Chennai-58. Petitioner

Vs

1. The Principal Secretary
Government of Tamil Nadu
Cooperation, Food & Consumer
Protection Department,
Secretariat, Fort St George
Chennai 600 009.
2. The Joint Managing Director
The Tamil Nadu Cooperative Milk
Producers Federation Ltd.,
Corporate Office, No.2,
Pasumpon Muthuramalingam Salai,
Nandanam, Chennai 600 035. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 2nd respondent to delete the endorsement of "Fitness/Quality efficiency certificate yet to produce. Penalty will be recovered in future bills" from the payment statement in respect of transport hire charges bill for the period 25.08.2016 to 31.08.2016 ; 01.09.2016 to 15.09.2016, 16.09.2016 to 30.09.2016 ; 01.10.2016 to 15.10.2016 and subsequent statements and further forbear the 2nd respondent from making any recovery from the bills for transport hire charges of the petitioner Society based on such endorsement.

For Petitioner : Mr.R.Arumugam

For R1 : Mr.A.Kumar,
Special Government Pleader

For R2 : Mr.T.K.Ashok Kumar

ORDER

Heard the learned counsel for the petitioner ; Mr.A.Kumar, learned Special Government Pleader, who accepts notice on behalf of the 1st respondent ; and Mr.T.K.Ashok Kumar, learned Standing Counsel, who accepts notice on behalf of the 2nd respondent and with the consent on either side, the writ petition is taken up for final disposal.

2. The petitioner would state that the 2nd respondent floated tenders to engage/hire 132 numbers of insulated vehicles for collection and distribution of Sachet Milk from Madhavaram, Ambattur, Sholinganallur and Kakkalur Dairies to Chennai Metro and its Sub Urban areas through Tender Notification dated 11.11.2015 and the petitioner / Society also participated in the said Tender and offered bid for 65 vehicles. Though the bid in respect of 222 vehicles was opened on 17.11.2015 and though 160 vehicles were found to be qualified, the negotiation of rate could not take place on the said date because of the initiation of litigation by certain persons before this Court. It is the further case of the petitioner that it became the successful bidder in respect of 59 out of 65 vehicles for a period of two years from 25.08.2016 and it had assembled all the vehicles for technical inspection on 24.08.2016 and after inspection, they were put to operation from 25.08.2016. It is also the case of the petitioner that they were carrying on the work as per the Work Order assigned to them and when it submitted the bills for the period 25.08.2016 to 31.08.2016 ; 01.09.2016 to 15.09.2016, payments were received by the petitioner from the 2nd respondent ; however the following endorsement was made:-

"Fitness/Quality efficiency certificate yet to produce. Penalty will be recovered in future bills"

on the ground that the 2nd respondent has found that the petitioner / Society has used 10 alternative vehicles out of total 59 approved vehicles. It is the case of the petitioner / Society that the petitioner or its members have not role to play in the issuance of the Fitness/Quality Efficiency Certificate except placing the vehicles for inspection prior to use and that the above entry is contrary to the terms and conditions of the Work Order/contract. In view of the same, the petitioner / Society has submitted a representation dated 17.10.2016 to the 2nd respondent. Though it was received and acknowledged by the 2nd respondent, no action is forth coming from them. Therefore, having left with no other alternative, the petitioner is constrained to approach this Court by filing the present writ petition.

3. Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances

and without going into the merits of the claim projected by the petitioner either in this writ petition or in his representation, directs the 2nd respondent to consider and dispose of the petitioner's representation dated 17.10.2016 on merits and in accordance with law and pass orders within a period of two weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

4. The writ petition stands disposed of with the above direction.No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Principal Secretary
Government of Tamil Nadu
Cooperation, Food & Consumer
Protection Department,
Secretariat, Fort St George
Chennai 600 009.

2. The Joint Managing Director
The Tamil Nadu Cooperative Milk
Producers Federation Ltd.,
Corporate Office, No.2,
Pasumpon Muthuramalingam Salai,
Nandanam, Chennai 600 035.

+1cc to Mr.R.Arumugam, Advocate, S.R.No.63558

+1cc to Mr.T.K.Ashok Kumar, Advocate, S.R.No.63706

+1cc to the Government Pleader, S.R.No.64360

W.P.No.38887 of 2016

PK(CO)

CA(11/11/2016)