

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.43325 of 2016 and
W.M.P. Nos.37199 and 37200 of 2016

V.Jayanthi

.. Petitioner

-VS-

1.Union of India,
rep. by Government of Puducherry
through Secretary to Government
Local Administration Department,
Chief Secretariat, Puducherry.

2.The Director,
Local Administration Department,
Government of Puducherry,
Puducherry.

3.The Commissioner,
Nettapakkam Commune Panchayat,
Nettapakkam, Puducherry.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorarified Mandamus to call for
the records of the third respondent in the file No.1-235/2016 (Admn)
N.C.P dated 01.12.2016 and quash the same and consequently to
direct the respondents to permit the petitioner to participate in the
tender proceedings rental basis tractor with tipper holder.

For Petitioner :: Mr.C.Radjasegarane

For Respondents:: Ms.D.Reena Iswarya
Additional Government Pleader (Pondy)

ORDER

Mrs.V.Jayanthi, W/o.Vadivel has come to this Court challenging the impugned notification dated 01.12.2016 issued by the third respondent in the file No.1-235/2016 (Admn) N.C.P, wherein it has been specifically mentioned that the persons who are not owning any tractor with tipper are not allowed to take part in the auction.

2.Learned counsel for the petitioner, assailing the impugned notification, would submit that on an earlier occasion, for the purpose of removing the garbage, the third respondent herein had issued a similar notification not permitting the petitioner to take part. When the petitioner was not considered to take part in the auction to be held by the same respondent for removal of garbage from various places, she came to this Court with Writ Petition No.37042 of 2016 seeking a writ of mandamus directing the respondents to consider and select her to the contract for removal of garbage from various places as per Notification file No.1-248/2016 (Admn.) N.C.P. Dated 01.09.2016.

3.He would further submit that this Court, taking note of the fact that the earlier auction was cancelled, refusing to give any direction to the respondents to consider her case with regard to awarding of contract for removal of garbage, has observed that it was

always open to the petitioner to take part, whenever a fresh auction notification was issued. Therefore, he would further submit that when this Court, by order dated 24.10.2016, observed that the petitioner was entitled to take part, whenever a fresh auction notification was issued, in view of the arbitrary clause in the notification saying that the persons who are not owning tractor with tipper, cannot be allowed to participate, she has been compelled to come to this Court.

4. But this Court finds no merit in his contentions. The reason is that when the notification has been issued with a clarification that the persons who are owning tractor with tipper alone can take part in the auction for the purpose of removal of garbage, the petitioner, who is not owning the above said tractor with tipper, cannot be permitted to take part in the auction

5. Learned Additional Government Pleader appearing for the respondents fairly submitted that by hiring out any tractor with tipper, the petitioner will not be able to execute the work.

6. This Court, agreeing with the objection that if any person like the petitioner is not able to hire out any tractor with tipper, the people living in the jurisdiction of the third respondent would be put to grave problem in view of the non-removal of garbage, is not inclined to

entertain this petition. Secondly, if any contractor is permitted to take

T.RAJA, J.

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part in the public auction without owning any tractor with tipper, the purposes for which the notification has been issued for up-keeping the roads and other public places belonging to the third respondent would definitely be defeated. Thirdly, the petitioner is not owning any tractor. Hence, she is not eligible. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected W.M.Ps are closed.

Index : yes/no
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16.12.2016

To

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