

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.4708 of 2016 &
W.M.P.4099 & 4100 of 2016

P.Vetrivel

.. Petitioner

v.

The Deputy Commissioner (Excise)
Office of the Deputy Commissioner
(Excise) Department of Revenue and
Disaster Management
Pondicherry

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the Tender Notification dated 29.01.2016 bearing No.1060/DCE/T(P)/2015-16 issued by the respondent, quash the same and consequently direct the respondent to fix the EMD reckoning the truncated period of licence.

For Petitioner: Mr.A.V.Arun

For Respondents: Mr.M.Govindaraj

Govt. Pleader (Pondicherry)

for Mr.A.Tamilvanan

Govt. Pleader (Pondicherry)

ORDER

The petitioner has filed the above writ petition to issue a writ of Certiorarified Mandamus to call for the records of the tender notification dated 29.01.2016, bearing No.1060/DCE/T(P)/2015-16, issued by the respondent, quash the same and consequently direct the respondent to fix the Earnest Money Deposit (EMD) reckoning the truncated period of licence.

2. On a reading of the affidavit filed in support of the writ petition it could be seen that the petitioner has filed the writ petition as a third party, who is not connected with the tender notification.

3. Mr.A.V.Arun, learned counsel appearing for the petitioner submitted that the petitioner is also participating in the auction to be held today in respect of IMFL, Arrack and Toddy Shops. However, the petitioner has not specifically stated in the affidavit that he is also a participant in the auction.

4. The main grievance of the petitioner is that any person participating in the sale has to deposit 10% of the sum equivalent to 12 times the reserve price fixed for respective shops as EMD. Further, the petitioner had contended that in the previous year, when identical situation arose, the respondent fixed the EMD at 10% of the number of leftover period whereas, in the present case, the respondent has fixed the EMD reckoning the entire length of the lease/licence period. Further, the petitioner has stated that there is likelihood of more participation and it would also increase the revenue to the Government, in the case of reduction in the EMD.

5. Mr.M.Govindaraj, learned Government Pleader (Pondicherry) appearing for the respondent submitted that the auction is being held only for getting revenue to the Government and the petitioner has no locus standi to file the writ petition challenging the tender notification.

6. As rightly contended by the learned Government Pleader (Pondicherry), since the petitioner has not specifically pleaded his locus standi to file the present writ petition, on that ground alone, the writ petition is liable to be rejected. That apart, the present fixation of the EMD of 10% of the sum equivalent to 12 times the reserve price is fixed for deriving more revenue to the Government. The said issue cannot be questioned by the petitioner for the reason that if lesser amount is fixed as EMD, it would cause a revenue loss to the Government.

7. In these circumstances, the present writ petition is devoid of merits and the same is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Rj
To

The Deputy Commissioner (Excise)
Office of the Deputy Commissioner (Excise)
Department of Revenue and Disaster Management
Pondicherry

+ 1 cc to Government Pleader Cum-Public Prosecutor,
Pondicherry Sr.8098

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