



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2016

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P(MD) .No.12209 of 2016

and

W.M.P. (MD) .No.9299 of 2016

T.Sengutuvan

... Petitioner

Vs

1. The Senior Divisional Commercial Manager,
Southern Railway,
Trichy.

2. The Commercial Manager,
Southern Railway,
Thanjavur Railway Station,
Thanjavur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondents to extend the license to petitioner to run Cycle Stand at Gate No.1 of Thanjavur Railway Station, for two more years as per the Original advertisement.

For petitioner

: Mr.S.Premkumar

For Respondents

: Mr.S.Manohar

ORDER

The petitioner has filed this writ petition, seeking a direction, directing the respondents to extend the license to petitioner to run Cycle Stand at Gate No.1 of Thanjavur Railway Station, for two more years as per the Original advertisement.

2. According to the petitioner, the first respondent called for tenders for granting licence for maintaining a Cycle Stand in Gate No.1 of Thanjavur Railway Station. Initially, the tender was for 5 years and the petitioner was the highest bidder, thereafter, he was called for negotiation on 15.06.2015 and on that day, the petitioner appeared in person and



increased his offer from Rs.81,000/- to Rs.86,000/- per month and approving his offer, the first respondent issued a proceedings dated 19.06.2015. In the above letter of acceptance, the period of contract was mentioned as one year from 01.07.2015 to 30.06.2016 and the licence amount is mentioned as Rs.10,66,667/-. Further, the petitioner was directed to pay income tax and also to provide bank guarantee. Following that, an agreement was executed between him and the first respondent conforming the terms with an option of renewal. In the month of June 2016, to his shock and surprise, the respondents again called for fresh tenders for a short period of three months. Even the petitioner has participated in it and quoted a higher amount, the respondents did not open the same and they have decided to give licence to another person. In such circumstances, without no other option, the petitioner has filed this writ petition.

3. The respondents filed a counter affidavit stating that even though the tender was called for three years. The petitioner had quoted Rs.84,000/- per month and not Rs.81,000/- as stated in the petition which amounts to Rs.30,24,000/- for three years. Since the offer was only 57% of the reserve price, the petitioner was called for one more round of negotiation on 15.06.2015. The petitioner attended the negotiation and increased his offer to Rs.32,00,000/- for three years, which was only 60% of the reserve price. As per the agreed guidelines, to avoid revenue loss, the tender period was reduced to one year by the tender committee and the contract was awarded to the petitioner only for one year I.e from 01.07.2015 to 30.06.2016 with licence fee of Rs.10,66,667/-. The petitioner availed the licence with full knowledge that the contract is only for one year. Apart from that, it is further stated in the counter when the period was nearing expiry, quotations were called for a limited period of three months to enable the office to process the tenders afresh, in which, the petitioner has also participated. Thereafter, the petitioner has filed a suit in O.S.No.224 of 2016 on the file of the District Munsif Court, Thanjavur. In the above tender for three months, the petitioner and one Mr.M.Elangovan had participated. The petitioner quoted Rs.2,68,500/- for ninety days and the above said Elangovan had quoted Rs.2,83,500/-, since Mr.M.Elangovan was the highest bidder, licence was granted to him and the period is also going to be over. Hence, there is no merit in the writ petition and prayed for dismissal of the writ petition.

4. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.



5. Even though the original tender was called for three years, since the price is less than the reserved price, the tender committee have decided to conduct a process of negotiation and in the above negotiation, the petitioner raised his offer and he was willing to pay for Rs.32,00,000/- for three years. In the above circumstances, in order to avoid revenue loss, the tender committee has decided to reduce the tender period to one year. Subsequently, from the records, it is clear that the Letter of Acceptance was also issued to the petitioner only for a period of one year. Thereafter, an agreement was entered into between the parties for the period of one year and the petitioner has also paid the licence fee for the above one year period. When the respondents were taking steps to call for a shorter tender for three months, the petitioner filed a suit with very same averments.

6. According to the learned counsel for the respondents, originally, the suit was filed for injunction and pending suit, an interlocutory application was filed seeking interim injunction and the same was dismissed by the trial court, against which, the petitioner filed an appeal and the said appeal is pending. In the above circumstances, since the petitioner himself accepted that the tender period for 1 year and also entered into an agreement with the respondent and paid the licence fee, it is not open to him to claim that the licence period is for three years. Even though there was an option for renewal of licence, since the licence period is over and subsequently, short term licence for three months was also granted in favour of a third party and that period was also over and the suit filed by the petitioner for the very same relief is also pending, now, the question of renewal does not arise. In the above circumstances, the petitioner cannot maintain a writ petition, invoking Article 226 of the Constitution of India.

7. In view of the above reasons, the writ petition filed by the writ petitioner is not maintainable and the same is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar



To

1. The Senior Divisional Commercial Manager,
Southern Railway,
Trichy.

2. The Commercial Manager,
Southern Railway,
Thanjavur Railway Station,
Thanjavur.

+1cc to Mr.S.Manohar, Advocate, SR.No.68975

VS

sm:sk-skn:15.12.2016:4P/4C

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