



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2016

CORAM :

THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

Writ Petition (MD) No.21345 of 2016

and

W.M.P (MD) No.15261 of 2016

D.Sivakumar

... Petitioner

Vs.

The Commissioner,
Virudhunagar Municipality,
Virudhunagar.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in Na.Ka.No.E3/13299/2015 Municipal Administration and water supply department office of Virudhunagar Municipality dated 03.03.2016 to quash the same and consequently Direct the respondent to continue to consider the petitioner as contractor and permit him from participation in all future contract work.

For Petitioner

: Mr.N.Sundareshan

For Respondent

: Mr.M.Muthugeethayan

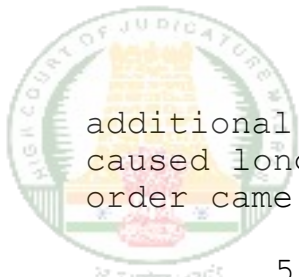
ORDER

Challenging the orders passed by the respondent cancelling the two works orders issued in favour of the petitioner and blacklisting the petitioner from participating in the future tender process, the present writ petition has been filed.

2.Heard Mr.N.Sundareshan, learned counsel appearing for the petitioner and Mr.M.Muthugeethaiyan, learned counsel appearing for the respondent.

3.According to the petitioner, the petitioner has awarded with a contract for black tapping of road, and issued with two work orders. However, the respondent directed the petitioner to pay additional security deposit as per the tender notification which is 20% of the estimated value, since the petitioner failed to pay the additional security, the respondent cancelled the work orders and also blacklisted him. Challenging the above orders, the petitioner filed this writ petition.

4.Learned counsel appearing for the respondent submitted that even though the order passed on 03.03.2016, the petitioner has filed this writ petition and it has to be dismissed on the ground of laches. Apart from that the petitioner himself admitted to pay



additional security deposit but failed to pay the said amount which caused long delay in commencing the work and therefore, the impugned order came to be passed.

5. Learned counsel appearing for the petitioner submitted that even though the petitioner sought for larger relief, he restricted his prayer only in respect of blacklisting of the petitioner alone.

6. I have considered the submissions made on either side and perused the materials available on record.

7. So far as the blacklisting of the petitioner is concerned, the respondent, without conducting any enquiry and without issuing any notice to the petitioner has blacklisted him for the above said default which is not permissible under law. Time and again, the Courts have consistently held that in the event of blacklisting of any contractor, proper notice has to be given and only after conducting enquiry, blacklisting should be made.

8. In the above circumstances, the writ petition is partly allowed and the impugned order blacklisting the petitioner alone is set aside. However, if the respondent wants to proceed with the matter for blacklisting the petitioner, it is always open to the respondent to do so, after issuing proper notice and giving opportunity to the petitioner.

9. The writ petition is accordingly partly allowed. No costs. Consequently, W.M.P(MD)No.15261 of 2016 is closed.

Sd/-
Assistant Registrar (CSII)

/True Copy/

Sub Assistant Registrar

+1 cc to Mr.N.Sundaresan, Advocate, Sr.No:71814
+1 cc to Mr.M.Muthugeethayan, Advocate, Sr.No:71215

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