



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2016

CORAM :

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.5274 of 2016

and

W.M.P(MD)Nos.4717 and 4718 of 2016

R.Selvaraj

... Petitioner

Vs.

1.The Director of Town Panchayat,
Kuralagam, Chennai.

2.The District Collector,
Trichy District,
Trichy.

3.The Assistant Director of Town Panchayat,
Trichy Zonal, Trichy.

4.The Executive Officer,
Sigumamani Town Panchayat (Selection Grade),
Sirugamani,
Trichy District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order of the 2nd respondent dated 22.7.2014 vide his proceedings in Na.Ka.No.1099/2014/Pe.1 and quash the same as illegal.

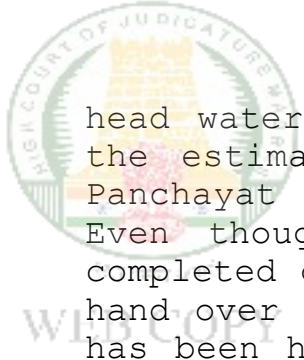
For Petitioner	:	Mr.T.Vadivelan
For Respondents 1&2	:	Mr.N.S.Karthikeyan, Additional Government Pleader.
For Respondents 3 & 4	:	No appearance

ORDER

This writ petition has been filed challenging the order passed by the District Collector, the second respondent herein cancelling the work order granted to the petitioner to construct an over head water tank, withholding the security deposit and also black listing the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

2.According to the petitioner, he is a registered contractor and he was a successful bidder for constructing a over



head water tank at 13th Ward, Indira Sundar Nagar, Sirugamani for the estimation of Rs.40 lakhs by utilizing the Sirugamani Town Panchayat United Urban Development Finance Scheme Fund 2012-2013. Even though as per the tender condition, the work should be completed on or before 31.03.2013, the fourth respondent failed to hand over the site and only in the end of December 2013, the site has been handed over to him and hence, he was unable to complete the work as stipulated in the tender condition. In the above circumstances, the impugned order has been passed by the second respondent.

3. According to the learned counsel for the petitioner, the impugned order has been passed without affording an opportunity to the petitioner and without conducting any enquiry, the work order has been cancelled and black listed the petitioner.

4. The fourth respondent has filed a counter affidavit, contending that as per the tender condition, the petitioner should have completed the work on or before 31.03.2013 and as per the tender condition, he has to commence the work within 24 hours of the awarding contract, though several reminders were sent to the petitioner, he did not complete the work. Despite notice, there was no progress in the work. Hence, by notice dated 24.01.2013, the petitioner was directed to complete the work within three days, even then, there was no progress and a final notice was issued in Roc.No.269/12, dated 13.02.2014 directing him to complete the work on or before 28.02.2014. But even on 09.05.2014, he has not completed the work. Since there is an urgent need to supply water to the general public, the second respondent has cancelled the tender and forfeited the deposit amount by the impugned order.

5. Admittedly, as per the tender conditions, the petitioner should complete the work on or before 31.03.2013. Despite several notices issued by the fourth respondent, the petitioner did not complete the work, as per the averment made in the counter affidavit as on 09.05.2014, he has completed only floor slab concrete level, thereby violating the tender condition. In the above circumstances, there is no infirmity found in the order passed by the second respondent cancelling the tender and withholding security deposits as per the tender conditions. However, so far as the blacklisting of the petitioner is concerned, the second respondent without issuing any show cause notice and conducting any enquiry blacklisted the petitioner in violation of principles of natural justice. Hence, the impugned order of the second respondent so far as the blacklisting the petitioner is set aside. However, it is open to the second respondent to issue necessary show cause notice to the petitioner and conduct proper enquiry before passing any order blacklisting the petitioner.



6. In the result, the writ petition is partly allowed. No costs. Consequently, W.M.P (MD) Nos. 4717 and 4718 of 2016 are closed.

Sd/
Assistant Registrar (RTI)

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Sub Assistant Registrar.

To

1. The Director of Town Panchayat,
Kuralagam, Chennai.
2. The District Collector,
Trichy District,
Trichy.
3. The Assistant Director of Town Panchayat,
Trichy Zonal, Trichy.
4. The Executive Officer,
Sigumamani Town Panchayat (Selection Grade),
Sirugamani,
Trichy District.

+1CC to M/S.T. Vadivelan, Advocate, SR.No. 54245
+1CC to the Special Government Pleader, SR.No. 54150

Writ Petition (MD) No. 5274 of 2016 and
W.M.P (MD) Nos. 4717 and 4718 of 2016

sms

AM/SS3/SAR-1/09.11.2016/3P/7C