

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.05.2017

PRONOUNCED ON : 08.06.2017

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

WP.Nos.12721 to 12735, 12898, 13186 to 13191, 13193 to 13198,
13256 to 13266, 13287 to 13293, 13385 to 13387, 13412 to 13415,
13432 to 13436, 13470, 13532 to 13545 and 13571 to
13581 of 2017

and

WMP Nos.13558 to 13561, 13562 to 13587, 13764, 13765, 14178 to
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K.Chandrasekar	...	Petitioner in WP.13544/2017	
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A.Babu	...	Petitioner in WP.13571/2017	
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Vs

1.The Tamil Nadu State Marketing Corporation Limited (TASMAC)
rep. by its Managing Director,
Thalamuthu Natarajan Maaligai
Gandhi Irwin Road,
Egmore, Chennai – 8.

2.The Tamil Nadu State Marketing Corporation Limited (TASMAC)
rep. by its District Manager
Chennai (Central) District,
No.B-4, Ambattur Industrial Estate,
Ambattur, Chennai – 600 058.

.. Respondents

12721 to 12735, 12898, 13193
to 13198, 13256 to 13266, 13412 to
13415, 13432 and 13433, 13532 to
13543 and 13571 to 13578/2017

1.The Tamil Nadu State Marketing Corporation Limited (TASMAC)
rep. by its Managing Director,
Thalamuthu Natarajan Maaligai
Gandhi Irwin Road,
Egmore, Chennai – 8.

2.The Tamil Nadu State Marketing Corporation Limited (TASMAC)
rep. by its District Manager
Kancheepuram (North) District,
Thirumazhilasi, Sembarambakkam,
Chennai – 600 123.

.. Respondents

WP.Nos.13434 to 13436,
13186 to 13191 and 13579 to
13581/2017

1.The Managing Director,
Tamil Nadu State Marketing Corporation Limited (TASMAC)
CMDA Towers, 4th Floor,
Egmore, Chennai – 8.

2. The District Manager
Tiruvallur (East) District,
Tamil Nadu State Marketing
Corporation Limited (TASMAC)
No.1, Bangalore High Road,
Tirumazhisai, Chennai – 600 124. .. Respondents
WP.Nos.13544 and 13545/2017
1. The Tamil Nadu State Marketing
Corporation Limited (TASMAC)
rep. by the Managing Director,
Thalamuthu Natarajan Maaligai
Gandhi Irwin Road,
Egmore, Chennai – 8.
2. The Tamil Nadu State Marketing
Corporation Limited (TASMAC)
rep. by the Senior Regional Manager
Anna Salai, Chennai- 2.
3. The Tamil Nadu State Marketing Corporation
Limited (TASMAC)
rep. by the District Manager – Thiruvallur (East)
No.1, Bangalore Highways,
Chembrambakkam,
Thiruvallur District. ... Respondents
in WP.Nos.13287 to 13293, 13385 to
13387 and 13470 of 2017

Prayer in WP.Nos.12721 to 12735, 12898 of 2017, 13193 to 13198, 13186 to 13191, 13256 to 13266, 13412 to 13415, 13432, 13436, and 13571 to 13581:- These Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the Tender Notices of the second respondent dated 02.05.2017 in Na.Ka.No.P1/264/2017 and dated 03.05.2017 in Na.Ka.Nos.P1/1655/2017, R8/652/2017, A4/7733/2017 and A4/561/2017 and quash the same.

Prayer in WP.Nos.13541 to 13543 and 13532 to 13540 of 2017:- These Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the Tender Notification issued by the second respondent dated 02.05.2017 and 03.05.2017 vide Na.Ka.Nos.B1/264/2017 and A4/561/17 in respect of shops bearing No.341 situated at No.10/1, K.H.Road, Ayanavaram, Chennai – 600 023, No.249, situated at 65-67, Strahans Road, Otteri, Chennai -12, No.248, situated at 94/12, Strhans Road, Otteri, Chennai-12, No.247, stiauted at 61/141, Puliyanthope High Road, Puliyanthope, Chennai – 12, No.331, situated at 19A, Konnur High Road, Ayanavaram, Chenai – 600 023, No.387, situated at No.81, Perambur Barracks Road, Choolai, Chennai -600 112, No.388, situated at 188, Strahans Road, Pattalam, Chennai – 600 012, No.342, situated at No.53 N.M.K.Street, Chennai- 600 023, No.343 situated at No.1, Baraka Road, Nammalwarpet, Chennai-600 012, No.357 situated at No.1, Laxmipuram, New Avadi Road, Chennai – 600 049, No.327 situated at No.199, K.H.Road, Ayanavaram, Chennai – 23 and No.380 situated at No.2/1, Brick Kilm Road, Otteri, Chennai – 600 012 respectively and quash the same on the ground of it being arbitrary, irrational, illegal and violative of Rule 20 of the Tamil Nadu Transparency in Tender Rules, 2000 and consequently direct the respondents herein to fix the fair and justifiable license fee and grant the license for the shops and permit the petitioners to run the said shop by paying the existing amount paid for previous year till the refixation of upset price.

Prayer in WP.No.13544 and 13545 of 2017:- These Writ Petitions are

filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the paper publication dated 04.05.2017 in chennai Edition of Makkal Kural tamil daily with respect to Tender Notification dated 03.05.2017 vide Na.Ka.A4/7733/2017 issued by the second respondent in respect of Shops bearing No.9178 situated at No.21, Industrial Estate, Mugappair, Chennai – 600 037 and No.8799, situated at No.27 Mahatma Gandhi Road, Kumaran Nagar Road, Padi, Chennai 600 058 respectively, quash the same on the ground of it being arbitrary, irrational, illegal and violative of Rule 20 of the Tamil Nadu Transparency in Tender Rules, 2000 and consequently direct the respondents herein to fix the fair and justifiable license fee and grant the license for the shops and permit the petitioners to run the said shop by paying the existing amount paid for previous year till the refixation of upset price.

Prayer in 13287 to 13293 and 13385 to 13387:- These Writ Petitions are filed to issue a Writ of Certiorarified Mandamus to call for the records in respect of the impugned tender notice issued by the third respondent vide Na.Ka.No.A4/7733/2017 dated 03/05/2017 and Na.Ka.No.B1/264/2017 dated 02.05.2017 for the tender year 2017-18 and quash the same in respect of the TASMACH shops No.8775 in Railway Station Road, Annanoor, Chennai, No.8720 in Door No.140, Kamaraj Nagar, Aavadi, Chennai -71, No.9059 in No.2/11, Avadi Road, Arunachalam Nagar, Chennier Kuppam, Poonamallee, Chennai -56, No.9187 in No.64/1, Ambattur Main Road, Chinna Koladi, Chennai-77, No.8908 in M.T.H.Road, Ambattur, Chennai – 53, No.334 in Dulasi Nagar, Poombukar Main Road, Kollattur, Chennai,

No.9062 in Koilpathagai Main Road, Koilpathagai, Avadi, Chennai, No.8845 in Survey No.61, Plot No.8, Mugappair Road, Ambattur, Chennai – 50, Shop No.9146 in S.No.432/3, No.1, Alappakkam Main Road, Maduravoyal, Chennai – 105 and Shop No.8848 in No.6, Keesan Nagar, Ayyanampakkam, Chennai – 95 respectively and consequently directing the respondents to revise the upset price in compliance of the directions issued by this Court in WP.No.24066 of 2015 and batch order dated 10.08.2015 and WP.No.26445 of 2015 and batch order dated 27.10.2015 and also by disposing of the petitioner's representation dated 12.05.2017.

Prayer in WP.No.13470 of 2017:- This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records in respect of the impugned tender notice issued by the third respondent vide Na.Ka.No.A4/7733/2017 dated 03/05/2017 for the tender year 2017-18 and quash the same in respect of the TASMACH shop No.9182 in No.187/10, Thangalkulakarai Pudur Road, Ambattur, Chennai – 53.

W.P.Nos.12721 to 12735, 12898, 13186 to 13191, 13193 to 13198, 13256 to 13266 and 13432 to 13436

For Petitioner : Mr.K.Selvaraj
For Respondents : Mr.K.Venkataramani, AAG
Assisted by Mr.B.Neduchezhiyan

W.P.Nos.13287 to 13293, 13385 to 13387, 13470 of 2017

For Petitioner : Mr.E.Vijay Anand
For Respondents : Mr.K.Venkataramani, AAG
Assisted by Mr.B.Neduchezhiyan

W.P.Nos.13532 to 13545 of 2017

For Petitioner : Mr.A.Ganapatheeswaran
For Respondents : Mr.K.Venkataramani, AAG
Assisted by Mr.B.Neduchezhiyan

W.P.Nos.13412 to 13415 of 2017

For Petitioner : Mr.M.Saravanakumar
For Respondents : Mr.K.Venkataramani, AAG
Assisted by Mr.B.Neduchezhiyan

W.P.Nos.13571 to 13581 of 2017

For Petitioner : Mr.M.Rajendiran
For Respondents : Mr.K.Venkataramani, AAG
Assisted by Mr.B.Neduchezhiyan

COMMON ORDER

In this batch of cases, while some of the writ petitions have been filed assailing the legality and validity of the tender notifications dated 02.05.2017 and 03.05.2017 issued by the respondent - Tamil Nadu State Marketing Corporation Limited (hereinafter shortly referred to as TASMAL), some of the writ petitions have been filed questioning the correctness of the said tender notifications, besides a writ of Mandamus to the respondents to revise the upset price in the light of the directions issued by this Court in the order dated 10.08.2015 in WP.No.24066/2015 etc. batch and order dated 27.10.2015 in WP.No.26445 of 2015 etc. batch and

also on the basis of the representation submitted by the petitioners.

2. In view of the common issue involved in this batch of cases, these writ petitions are considered and decided by this common order.

3. The case of the petitioners as averred in the affidavits filed in support of these writ petitions, is as follows:

The Petitioners were issued with licences to collect empty bottles and sell eatables in the Bars attached to their respective TASMAL Retail Vending shops. While so, the respondents published tender notifications dated 02.05.2017 and 03.05.2017 for issuance of licence attached to TASMAL shops under the Tamil Nadu Liquor Retail Vending (in shops and bars) Rules, 2003. Since the licence fee fixed is claimed to be at a very high rate, the petitioners were reluctant to participate in the tender process. Some of the petitioners have made representations to the respondents narrating their difficulties in not participating in the tender called for by the respondent concerned and the same are pending without any

progress. According to the petitioners, some of them along with others have already approached this Court by filing a batch of cases in WP.No.26445 of 2015 etc. By order dated 27.10.2015, the said cases were disposed of, with the following directions:

"1.The impugned orders are quashed.

2.The Respondents are directed to formulate appropriate tender conditions as agreed upon earlier, so as to fix the upset price for the Bars.

3.The Respondents are directed to fix the upset price taking into consideration the volume of sales and finalise the tenders.

4.The said exercise shall be complied within four weeks from the date of receipt of a copy of this order. Till then, the Petitioners are permitted to pay the existing rent with an enhancement of 25% over and above the amount payable from 1.9.2015."

Without following the aforesaid directions issued by this Court, the respondents have called for tenders for grant of licence attached to TASMACH shops for the year 2017-18, wherein, it is stated that the date fixed for submission of tender was 26.05.2017 and the tender would be confirmed on the same day. Aggrieved over the said tender notifications, the petitioners are before this Court with the present writ petitions for the above stated relief.

4.The main contention of the learned counsel for the petitioners in all the writ petitions is that in the impugned tender notices, no upset price was fixed. Further, till date, in respect of Tiruvallur (East) District, the tender document for submission is not at all available in the website and in respect of Chennai District, the tender document found in the website is not able to be downloaded. The learned counsel further contended that there must be at least 15 days time between the submission of tenders and confirmation of the same as per the relevant statute, whereas, no such time was provided in the tender notifications in question. Thus, according to the learned counsel for the petitioners, the respondents have not complied with the directions issued by this Court in the order dated 27.10.2015 in WP.No.26445/2015 etc. batch of cases.

5.Though the learned Additional Advocate General appearing for the respondent – TASMAC, refuted the contentions so made on the side of the petitioners, he ultimately submitted that due to administrative reasons, the respondents have not acted upon the tender notifications issued for the year 2017-18 and the Government is inclined to float afresh notification.

6.Heard both sides and perused the records.

7.The facts made available herein, if viewed in the light of the documents placed before this Court, would reveal that the respondents have grossly violated the earlier order of this Court dated 27.10.2015 in WP.No.26445 of 2015 etc. batch, while publishing the tender notifications for grant of licence attached to TASMALC shops for the year 2017-18, as rightly argued by the learned counsel for the petitioners. Such act of the respondents, in the considered opinion of this Court, cannot be countenanced. On this score alone, the impugned notices are liable to be quashed. Further, the learned Additional Advocate General appearing for the respondents, in the midst of the argument, submitted that the Government has not acted upon the tender notifications dated 02.05.2017 and 03.05.2017 and is now inclined to issue afresh notification. The said submission of the learned Additional Advocate General is recorded.

8.For the reasons stated above, the impugned notices dated

02.05.2017 and 03.05.2017 issued by the respondent concerned are quashed. The matter is remanded back to the respondents for fresh consideration, in the light of the earlier order of this Court dated 27.10.2015 in WP.No.26445 of 2015 etc. batch of cases and also in accordance with law and for notifying the tender. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

9. Accordingly, all the writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.06.2017

Index: Yes/No
rk

To

1. The Managing Director,
Tamil Nadu State Marketing Corporation Limited (TASMAC)
Thalamuthu Natarajan Maaligai
Gandhi Irwin Road,
Egmore, Chennai – 8.
2. The Senior Regional Manager
Tamil Nadu State Marketing Corporation Limited (TASMAC)
Anna Salai, Chennai- 2.
3. The District Manager – Thiruvallur (East)

Tamil Nadu State Marketing Corporation Limited (TASMAC)
No.1, Bangalore Highways,
Chembrambakkam, Thiruvallur District.

R.MAHADEVAN, J.

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