



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Judgment Reserved On : 17.11.2017

Judgment Pronounced On : 21.12.2017

CORAM

THE HON'BLE MR.JUSTICE M.VENUGOPAL
and
THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.A. (MD) Nos.1401 to 1403 of 2017
and
C.M.P. (MD) Nos.10221 to 10226 of 2017

SRI PAULTHAI LORRY BOOKING OFFICE, THROUGH ITS PROPRIETOR
G.JEYASINGH, NO.290 A3, SIVANTHAKULAM ROAD, TUTICORIN-628 003.

... Petitioner in WA(MD). 1401/ 2017

SRI PAULTHAI LORRY BOOKING OFFICE, THROUGH ITS PROPRIETOR
G.JEYASINGH, NO.290 A3, SIVANTHAKULAM ROAD, TUTICORIN-628 003.

... Petitioner in WA(MD). 1402/ 2017

SRI PAULTHAI LORRY BOOKING OFFICE, THROUGH ITS PROPRIETOR
G.JEYASINGH, NO.290 A3, SIVANTHAKULAM ROAD, TUTICORIN-628 003.

... Petitioner in WA(MD). 1403/ 2017

- Vs. -

1.THE MANAGING DIRECTOR TAMIL NADU CIVIL SUPPLIES CORPORATION,
NO.12, THAMBUSAMY ROAD, KILPAUK, CHENNAI.

2.THE REGIONAL MANAGER TAMIL NADU CIVIL SUPPLIES CORPORATION,
110, GOOD SHED ROAD, UDHAGAMANDALAM.

3.M/S.BALAJI, P.S.SELVARAJ, NO.10/3, OM TOWERS,
NELLAI HOSPITAL OPP., ROYAL THEATRE ROAD, ERODE-11.

... Respondents in WA(MD). 1401/ 2017

1.THE MANAGING DIRECTOR TAMIL NADU CIVIL SUPPLIES CORPORATION,
NO.12, THAMBUSAMY ROAD, KILPAUK, CHENNAI.

2.THE REGIONAL MANAGER TAMIL NADU CIVIL SUPPLIES CORPORATION,
SIPCOT CAMPUS, TUTICORIN

3.M/S.MKN.TRANSPORT REP BY SOLE PROPRIETOR, N.KUMERASAN,

NO.118/12, MADURAI ROAD, TIRUNELVELI.

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

... Respondents in WA(MD). 1402/ 2017



1. THE MANAGING DIRECTOR TAMIL NADU CIVIL SUPPLIES CORPORATION,
NO.12, THAMBUSAMY ROAD, KILPAUK, CHENNAI.

2. THE REGIONAL MANAGER TAMIL NADU CIVIL SUPPLIES CORPORATION,
H-38, A/10 TNHB, MANICKAMPALAYAM, ERODE-638 011

3. M/S. BALAJI P.S. SELVARAJ, NO.10/3, OM TOWERS,
NELLAI HOSPITAL OPP, ROYAL THEATRE ROAD, ERODE-11.

... Respondents in WA(MD). 1403/ 2017

Common Prayer: Writ Appeals filed under Clause 15 of the letters patent against the common order, dated 25.10.2017 made in W.P.(MD) Nos.13606 to 13608 of 2017.

Prayer in WP(MD). 13606/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the 2nd respondents vide his proceedings Ref.No.R.C.No. B.1/2297/2017 dated 15.07.2017, quash the same and consequently direct the respondent 1 and 2 to open the price bid submitted by the petitioner in respect of Nilgiris region and thereafter finalize the lowest tenderer and award transport contract for the period 01.08.2017 to 30.06.2018.

Prayer in WP(MD). 13607/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the 2nd respondents vide his proceedings Ref.No. R.C.No: B3/4322/2017 dated 18.07.2017, quash the same and consequently direct the respondent 1 and 2 to open the price bid submitted by the petitioner in respect of Tuticorin region and thereafter finalize the lowest tenderer and award transport contract for the period 01.08.2017 to 30.06.2018.

Prayer in WP(MD). 13608/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the 2nd respondents vide his proceedings Ref.No.R.C.No. B.944/2017/BS2 dated 18.07.2017, quash the same and consequently direct the respondent 1 and 2 to open the price bid submitted by the petitioner in respect of Erode region and thereafter finalize the lowest tender and award transport contract for the period 01.08.2017 to 30.06.2018.



For Appellant in all
the Writ Petitions

: Mr.M.Ajmalkhan, Senior Counsel
for
Mr.Niranjan S.Kumar

For R1 & R2 in all
the Writ Petitions

: Mr.M.B.Pugalendhi
Additional Advocate General
assisted by
Mr.W.Pamelin

For R3 in all
the Writ Petitions

: No Appearance

C O M M O N J U D G M E N T

[Judgment of the Court was delivered by M.VENUGOPAL, J.]

Introduction:

The Appellant has preferred the instant intra-Court writ appeals before this Court as against the common order, dated 25.10.2017 in W.P.(MD)Nos.13606 to 13608 of 2017, passed by the Learned Single Judge.

2.Earlier, the Learned Single Judge while passing the impugned common order, dated 25.10.2017, in W.P.(MD)Nos.13606 to 13608 of 2017, filed by the Appellant/Writ Petitioner at paragraph Nos.8 to 10, had observed the following:-

"8.According to the Petitioner, interim stay of blacklisting was extended by an order, dated 22.04.2016 and it would be deemed to be extended until the order is vacated.

9.The Learned Additional Advocate General urged that interim stay of blacklisting was granted in WMP(MD)No.2396 of 2016 only for a limited period, but subsequently, it was not extended and therefore, the blacklisting order revived, hence, the rejection cannot be found fault.

10.As stated supra, the order of blacklisting the Petitioner was stayed in WMP(MD)No.2396 of 2016 for a period of three weeks, by an order of this Court, dated 08.02.2016. However, subsequently, there is no record to show that the interim stay of blacklisting extended as claimed by the Petitioner. Hence, this Court is not able to subscribe the contentions made by the Learned Senior Counsel for the Petitioner. Moreover, it is not yet decided in the earlier Writ Petition as to whether the interim stay is for limited period or not. Hence, until the issue is settled, the Petitioner had no right to put-forth such contention."

and finally dismissed the Writ Petitions.

3.The Appellant's Contentions:-

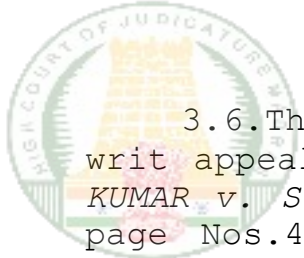
3.1.The Learned Senior Counsel for the Appellant (in all the Writ Appeals/Writ Petitions) submits that the Learned Single Judge was not correct in coming to the conclusion that the interim order granted in W.P.(MD)No.2712 of 2016 was not extended and the same is an error apparent on the fact of record. In this connection, the Learned Senior Counsel for the Appellant points out that the reading of the order passed by this Court would clearly reveal that there was restriction for the first two extension and the last extension granted on 24.02.2016, which would indicate that the order was not limited to a certain period.

3.2.The Learned Senior Counsel for the Appellant proceeds to point out that the 'Rejection Orders' were passed by the Respondents based on the reason that the Appellant was blacklisted by the Respondent/Civil Supplies Corporation.

3.3.Added further, the Learned Senior Counsel for the Appellant emphatically takes a plea that when the Appellant/Writ Petitioner had assailed the blacklisting order, this Court, granted an interim order of stay of the impugned order and it is a settled law that an interim order is deemed to be in force untill or otherwise, the same is vacated.

3.4.The Learned Senior Counsel for the Appellant contends that this Court, had recorded that the Respondents had filed their counter affidavit in blacklisting case and thereafter, directed to post the blacklisting case after vacation and also extended the interim order. The Learned Senior Counsel for the Appellant submits that in the earlier order granted on 08.02.2016, 03.03.2016 and 31.03.2016, in W.P.(MD)No.2712 of 2016, this Court, had restricted the interim order by using the words 'till then', however, in the interim order granted on 22.04.2016, this Court, had not restricted it, by using the term 'till then'. As such, there is a general presumption under Section 114 of the Evidence Act that the interim order is not restricted to, for a specific date or time. As such, the Learned Single Judge on a misconception, came to a conclusion that the order was not extended thereafter.

3.5.The Learned Senior Counsel for the Appellant projects an argument that the Learned Single Judge was not correct in arriving at a conclusion that the order of 'Blacklisting' the Appellant was stayed in W.M.P.(MD)No.2396 of 2017 in W.P.(MD)No.2712 of 2016 for a period of three weeks and thereafter, there is no record to show that the interim stay of blacklisting was extended. In short, the conclusion arrived at by the Learned Single Judge in dismissing the Writ Petition is materially an incorrect one. The Learned Senior Counsel for the Appellant submits that there was bias and *mala fide* on the part of the Respondent/Corporation in rejecting the tender of the Appellant.



3.6. The Learned Senior Counsel for the Appellant (in All the writ appeals) cites the decision of Hon'ble Supreme Court in *ASHOK KUMAR v. STATE OF HARYANA* reported in 2007 (3) SCC 470, at special page Nos.472 and 473, wherein at paragraph Nos.11 to 13, it is observed as under:-

"11. The short question which arises for consideration in this appeal is as to whether the order of ad interim injunction granted by the learned Civil Judge, Senior Division, Panipat, was operative till 09.09.1998 or 19.08.2000. We have noticed hereinbefore the nature of the orders passed by the learned Civil Judge. Although in its order dated 30.08.1997, the learned Civil Judge, used the term "In the meantime", which was repeated in its order dated 24.09.1997, but in the subsequent orders beginning from 29.11.1997, the expression used was "till then".

12. The term of the order of the learned Judge, in our opinion, does not leave any manner of doubt whatsoever that the interim order was only extended from time to time. The interim order having been extended till a particular date, the contention raised by the respondents herein that they were under a bona fide belief that the injunction order would continue till it was vacated cannot be accepted.

13. In our considered opinion, the purport of the order passed by the learned Civil Judge, Senior Division, Panipat, in extending the order of injunction is absolutely clear and explicit. It may be true that the date was preponed to 28.07.1998, but from a bare perusal of the order passed by the learned Civil Judge, Senior Division, it is evident that the order of injunction was not extended. Even on the subsequent dates, the order of injunction was not extended. In fact, no order extending the period was passed nor any fresh order of injunction was passed by the learned Civil Judge, Senior Division, subsequent thereto."

3.7. Also, in the aforesaid decision of the Hon'ble Supreme Court at page No.474, wherein at paragraph No.18, it is held as follows:-

"There is no warrant for the proposition, as was stated by the High Court that unless an order of stay passed once even for the limited period is vacated by an express order or otherwise; the same would continue to operate."

3.8. The Learned Senior Counsel for the Appellant relies on the decision of this Court in *M.ARUMUGAM v. THE CHAIRMAN, TAMIL NADU ELECTRICITY BOARD*, reported in 2016 (5) CTC 350, at special page No.351, wherein it is held as under:-

"Even though the counter affidavit states that the impugned order was passed under the mistaken belief that stay was not in force, when the demand of penalty made by the respondent Board is the subject

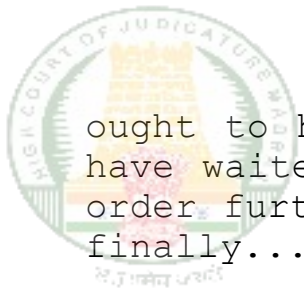


matter of W.P. No. 30358 of 2012 and when an interim order had also been granted by this Court, in the said writ petition, staying the payment of penalty imposed, even if the interim order had not been extended subsequently, unless the said order had been vacated, modified or varied, it is deemed to be in force. The respondent Board cannot take advantage of non-extension of the interim order to demand payment of penalty, as a pre-condition, for effecting domestic service connections sought by the petitioner."

3.9. The Learned Senior Counsel for the Appellant refers to the decision between *VISHNU DUTT SHARMA v. REGIONAL JOINT DIRECTOR OF EDUCATION, AGRA AND OTHERS* reported in 2001 (1) AWC 721, wherein at paragraph Nos.5 to 7, it is observed as follows:-

5. The argument cannot be accepted as it overlooks Chapter V, Rule 14 which specifically provides that a case shall not be treated as tied-up to the Bench which granted the ex parte order. Therefore, it is not possible to accept the request of the learned counsel for the respondents to direct such applications for extension of interim order to be listed before the learned Judge who granted the interim order. At the same time, this Court is reeling under mounting pressure of arrears. The efficacy of time bound interim orders may be there but it has added to the burden. The Benches are normally rotated after two or three months. The petition is heard by other Judge. He has to hear the matter afresh. The result is that when jurisdiction is changed after two or three months, he is faced with such a situation that he is left with no time to devote to the cases listed before him and there is pressure for extending the stay order. The Court cannot afford to lose valuable time everyday in hearing and disposing of such applications. This Court has held that such orders do not exhaust or cease to operate after expiry of time mentioned in the order. In *Shiksha Prasar Samiti, Allahabad and another v. Registrar, Societies, Chits and Firms, U. P. Lucknow and others*, (1998) 1 UPLBEC 399, the Division Bench held in paragraph 12 as under :

'..... Limited interim orders are passed by the Court to prevent misuse of the same. Quite often it does happen that limited interim orders are not extended on the date of expiry by this Court for want of time or for various other reasons. But normally whenever the case is next taken up, the interim orders are extended unless the matter is decided on the same day or the interim order is vacated by a specific order after hearing the parties. During such gap, the authorities must wait for reasonable time and should refrain from passing order advantageous to one party. We have no hesitation in saying that these two petitions have come before us on account of the undue haste and unreasonable attitude adopted by respondent No. 2. He

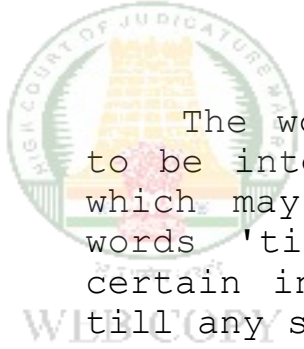


ought to have watched at least for a reasonable time and must have waited to see as to whether this Court extended the stay order further or vacated the same or decided the writ petition finally.....'

WEB COPY

6. This Court has been facing this problem of time bound interim order since long. In *Ashiq All v. Mohd. Shakeel and others*, 1985 (3) LCD 362, it has been held by this Court that a time bound stay order till the next date of listing of the case would not automatically exhaust or come to an end on the date the case is listed in the cause list. If the matter is not taken up, the stay order would continue till the next date of listing. This Court in another decision in *Shambhoo Nath Singh Yadav v. State of U. P.* 1994 (1) ALR 32, has held as under :

'It has been submitted at the bar that the Court below will proceed with the case until the order is extended today. In my opinion, the order passed by this Court on 28.5.1993 is amply clear and it means that further proceedings in the case shall remain stayed until the order is modified or vacated by some subsequent order. The words 'till the next date of listing' implies that the case is listed and some further order is passed. I do not agree that the words 'till next date of listing' should be interpreted literally. If a narrow and literal interpretation is given to the above words, it will lead to uncertainty and make the High Court's order obscure. Judicial orders are to be certain in the meaning so that subordinate courts or other authorities may not be in any confusion and start acting according to their own choice and whim. The next date of listing is neither known to the subordinate courts or to other authorities. A case may be listed in the very next week while another case may not be listed for a year and hence the subordinate courts or other authorities who are bound by the stay order will never know how long the stay order has to continue. Listing of a case in the case list has no magic in itself. Even if a case is listed on a particular day, it may not be taken up on account of a variety of reasons ; there may be no sitting of the Court on the day of listing or due to pressure of other work, the case may not be taken up for further orders. If listing alone determines the length of time during which the order has to survive, the office of the High Court will become the real arbiter and it may or may not list a case at its choice. It is for the Court to mention a clear date if it chooses to pass a time bound stay order and not for the office to shorten or to give a long rope to the operation of a stay order.'



The words 'till the next date of listing' are, therefore, to be interpreted in a reasonable manner and not in a manner which may lead to absurdity or create confusion. Thus, the words 'till the next day of listing' are quite clear and certain in their meaning that the stay order has to continue till any subsequent order is passed by the Court.'

This Court in *Ram Abhilakh Misra v. Cane Commissioner and others*, 1998 (1) ARC 526, has held that a judicial order continues until and unless the same is vacated or not extended on the case being taken up. It shall not lapse automatically on its own when though the matter is listed in the cause list but is not taken up by the Court due to lack of time. In *Cold Storage Association, U. P. having its office at Fazalganj, Kanpur v. State of Uttar Pradesh and others*, 1992 AWC (Suppl.) 43, it has been held in paragraph 12 as below :

'..... The interim stay order dated 23.6.1992, which was a time bound order, exhausted on 17th August, 1992' in the absence of any extension. Under these circumstances, what this Court is seized of presently, is the final disposal of the application for interim relief on merits. Even if it may be assumed that the interim order dated 23.6.1992 stood automatically vacated on 7th August, 1992 on account of non-disposal of the stay vacation application dated 24.7.1992, there is no reason to hold that the interim relief application itself stood exhausted. The same is available for disposal on merits.'

7. The law thus appears to be settled, so far this Court is concerned, that time bound stay orders do not cease to be effective by efflux of time. The result in law is that a time bound order has the same effect as an order till further orders of the Court. In other words, it continues to operate till it is recalled, vacated or modified. The rules also do not provide for time bound stay orders. Yet the confusion prevails and every day, large numbers of applications are filed for extension of such orders consuming lot of Court's time. In the circumstances it has become necessary not only to dispose of this application but also to issue following directions to the office :

(1) The request for extension of interim order is disposed of by saying that no order is necessary as the time bound interim orders do not exhaust after expiry of time mentioned in the order.



(2) The Registrar General of the Court is directed to issue necessary directions to the office within one week that in view of the decisions of this Court the applications for extension of time bound Interim orders need not be listed. But if the petitioner applies for question-answer form, the office to find out whether his application was pending and interim order was continuing even after expiry of time mentioned in the order the answer be given by the office in the affirmative."

3.10. The Learned Senior Counsel for the Appellant cites the decision in *ANIL CHITODA v. STATE OF RAJASTHAN AND OTHERS* reported in RLW 2009 (4) Raj 3385, wherein at paragraph No.25, it is observed as under:-

"A perusal of the record of proceedings of this writ petition makes it absolutely clear that on 02.03.2009, the interim order came to be passed only after notice and when the respondents failed to appear despite notice. There is nothing in the initial order dated 02.03.2009 indicating if the interim order was intended to be limited for a particular period. Even when the next order-sheet dated 16.03.2009 had been to the effect that the interim order, if any, was to continue until the next date, the fact cannot be lost sight of that nobody was present for the respondents on that date either. There is nothing on record to suggest that despite nobody appearing for the respondents, the Court intended to limit the life of the interim order to a particular date."

3.11. The Learned Senior Counsel for the Appellant refers to the order passed by this Court in *W.P.(MD)No.12808 of 2011*, dated 14.03.2013, between *JEYASINGH v. THE GENERAL MANAGER (TN), FOOD CORPORATION OF INDIA, REGIONAL OFFICE, CHENNAI-6*, wherein at paragraph No.8, it is observed as under:-

"The respondent is directed to issue a fresh notification calling for tenders. It is open to the petitioner also to take part in the tender, provided he is eligible. However, it is made clear that the order passed by the Tamil Nadu Civil Supplies Corporation on 05 July, 2011, blacklisting the petitioner should not stand in the way of considering his bid on merits."

4.Submissions of First and Second Respondents:-

4.1.In response, it is the contention of the Learned Additional Advocate General for the Respondents Nos.1 and 2 that the Appellant was one of the private transporters for transporting Essential Commodities from 'Godown to Retail Outlets' and from FCI depot to Godown and at the loading point, where the essential commodities are loaded after weighment into the Trucks, the acknowledgement of the Contractor or his authorised Representative is obtained for the stocks in the truck memo. At the receiving point, the stocks are verified and unloaded in the presence of representative of the Tamil Nadu Civil Supplies Corporation.



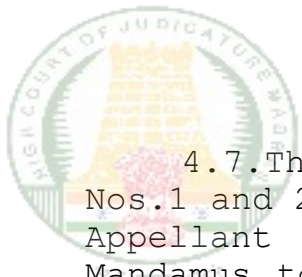
4.2.The Learned Additional Advocate General for the Respondents Nos.1 and 2 proceeds to point out that the verification of party copies of acknowledgement and transporter's copy for the contract period from 2008-2009, it was found that out of 99 acknowledgement forms scrutinized, there were discrepancies in 61 of the acknowledgement forms in respect of 699 Palmolein packets and that the Transporter's copies of acknowledgement forms were manipulated, falsified and thus show cause notice was issued and the Appellant was Blacklisted.

4.3.It is represented on behalf of the Respondent Nos.1 and 2 that the Appellant had not disputed the fact that there were manipulation and interpolation and he had not objected to the recovery of Rs.34,950/-. In this connection, the Learned Additional Advocate General for the Respondents Nos.1 and 2 contends that the Appellant filed W.P.(MD)No.8063 of 2011 on 19.07.2011 and obtained an order of interim stay in MP(MD)No.1 of 2011 in WP(MD)No.8063 of 2011, on 20.07.2011 and on the strength of the interim order, he was permitted to participate in the tender process for FCI movement for the contract period from 2013-2014. Moreover, this Court, on 10.12.2015 had disposed of the Writ Petition by taking cognizance of the Appellant/Petitioner's conduct by directing the Second Respondent to consider and dispose of the appeal and the same was disposed.

4.4.The Learned Additional Advocate General for the Respondents Nos.1 and 2 submits that the Appellant filed W.P.(MD)No.2712 of 2016 and obtained an order in W.M.P.(MD)No.2396 of 2016 dated 08.02.2016 staying the operation of the black-listing portion of the order, dated 01.02.2016 for a period of 3 weeks, which was extended thrice on 08.02.2016, 03.03.2016 and 17.03.2016 and finally on 31.03.2016, the interim order was extended by three weeks by this Court in a common order in WP(MD).No.3330 of 2016 and WP(MD)No.2712 of 2016 dated 31.03.2016.

4.5.The Learned Additional Advocate General for the Respondents Nos.1 and 2 strenuously comes out with a plea that the interim order already granted was extended in W.M.P.(MD)No.2396 of 2016 in WP(MD) No.2712 of 2016, dated 22.04.2016 and this Court while hearing the matter on 12.07.2017 refused to extend the interim order and hence the black-listing of the Appellant is alive on that date and the main Writ Petition in W.P.(MD)No.2712 is pending before this Court.

4.6.The Learned Additional Advocate General for the Respondents Nos.1 and 2 submits that the commercial reliability and trust worthiness in the light of the conduct of transaction in question is very much relevant to take a decision as to black-listing of a contractor. Apart from that, the Learned Additional Advocate General for the Respondents Nos.1 and 2 contends that the Appellant/Writ Petitioner had exhibited his untrustworthiness by resorting to the documents for the purpose of cheating and therefore, he was black-listed for a period of two years.



4.7. The Learned Additional Advocate General for the Respondents Nos.1 and 2 draws the attention of this Court to the effect that the Appellant filed W.P.(MD).No.12077 of 2017 seeking a relief of Mandamus to grant him No Due Certificate and at the request of the Respondent/Tamil Nadu Civil Supplies Corporation, the order of Blacklisting in W.P(MD)No.2712/2016 was also listed on 12.07.2017 and further that the Respondent/Corporation contended that the interim orders were not extended after 22.04.2017 and therefore, the same cannot be substantiated. Indeed, this Court, on 12.07.2017 without passing any orders in regard to the interim orders had directed the registry to post it before some other Bench.

4.8. The Learned Additional Advocate General for the Respondents Nos.1 and 2 informs this Court that the Appellant filed W.P(MD) Nos.13193 of 17 and 13194 of 2017 seeking for passing of an order by this Court in directing the Respondents to open his price bid for Tirunelveli and Thoothukudi Region and the Respondent/Corporation took a stand that the Appellant is not entitled for the relief as he was already blacklisted and that the interim order passed by this Court was not persisting. As a matter of fact, the Appellant withdraw the afore stated Writ Petition on 25.07.2017 and subsequently, the W.P(MD)2712 of 2016 (challenging the order of blacklisting) was pending before the Learned Single Judge and after 15.07.2017, it was listed four times and that the Learned Single Judge had rejected the plea to extend the interim order.

4.9. The Learned Additional Advocate General for the Respondents Nos.1 and 2 refers to the order, dated 25.10.2017 in W.P.(MD) No.13606 to 13608 of 2017, wherein it is among other things observed that *'the order of blacklisting the Petitioner was stayed in WMP (MD)No.2396 of 2016 for a period of three weeks, by an order of this court, dated 08.02.2016. However, subsequently, no record to show that the interim order of blacklisting had been extended and hence, this court is not able to subscribe the contentions made by the Learned Senior Counsel for the Petitioner. Moreover, it is not yet decided in the earlier Writ Petition as to whether the interim stay is for limited period or not. Hence, until the issue is settled, the Petitioner had no right to put-forth such contention and ultimately, dismissed the Writ Petition.'*

4.10. The Learned Additional Advocate General for the Respondents Nos.1 and 2 refers to the order, dated 31.03.2016 in W.P.(MD)No.3330 of 2016 and W.P.(MD)No.2712 of 2016 and W.M.P.(MD) No.2396 of 2016, wherein this Court, had passed the following order:-

"Interim order already granted is extended by three weeks."

4.11. Further, on 22.04.2016, in W.P.(MD)No.3330 of 2016 and W.P.(MD)No.2712 of 2016 and W.M.P.(MD)No.2396 of 2016, this Court had passed the following order:-



"Counter filed today. Interim order already granted is extended. Post after vacation."

4.12. In this regard, it is the stand of the Respondents No.1 and 2 that when the matter came up before this Court on 31.08.2017, 08.09.2017, 19.09.2017 and 22.09.2017, the interim orders were extended. The Learned Additional Advocate General for the Respondents Nos.1 and 2, seeks in aid of Article 226(3) of the Constitution of India, which reads as under:-

"Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without

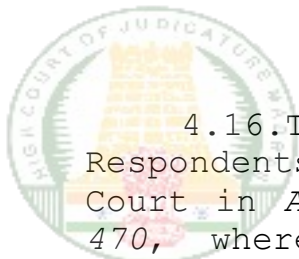
(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the Counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the aid next day, stand vacated".

4.13. The Learned Additional Advocate General for the Respondents Nos.1 and 2 contends that in this case, when the counter was filed on 22.04.2016, the case was not listed later and as such, the ingredients of Article 226 (3) of the Constitution of India gets attracted.

4.14. The Learned Additional Advocate General for the Respondents Nos.1 and 2 cites the decision of the Hon'ble Supreme Court in *ARJAN SINGH v. PUNIT AHLUWALIA* reported in 2008 (8) SCC 348, wherein it is held that 'injunction (against sale of immovable property) neither extended nor vacated after a particular date i.e. 16.10.1996 (due to the lacuna of Court), injunction shall not remain operative thereafter.'

4.15. The Learned Additional Advocate General for the Respondents Nos.1 and 2 relies on the decision of the Hon'ble Supreme Court in *N.RATHINASABAPATHY v. K.S.PALANIAPPA KANDAR* reported in 1996 (7) SCC 205, wherein it is held that 'when there is no extension of the period of injunction granted, there is no violation of Court's order'.



4.16. The Learned Additional Advocate General for the Respondents Nos.1 and 2 cites the decision of the Hon'ble Supreme Court in *ASHOK KUMAR v. STATE OF HARYANA* reported in 2007 (3) SCC 470, wherein it is held that 'there is no warrant for the proposition as was stated by the High Court that unless an order of stay passed once even for a limited period is vacated by an express order or otherwise, the same would continue to operate'.

5.Evaluation:-

5.1. It is to be pointed out that the Appellant in W.A.(MD) No.1401 of 2017 had filed W.P.(MD) No.13606 of 2017 as Writ Petitioner praying for passing of an order by this Court to call for the entire records relating to the impugned order passed by the Second Respondent in Ref.No.R.C.No.B1/2297/2017, dated 15.07.2017 and to quash the same. Further, the Appellant has sought for a consequential direction being issued to the Respondents No.1 and 2 to open the price bid submitted by him in respect of Nilgiris Region and thereafter, finalise the lowest tenderer and award transport contract for the period from 01.08.2017 to 30.06.2018.

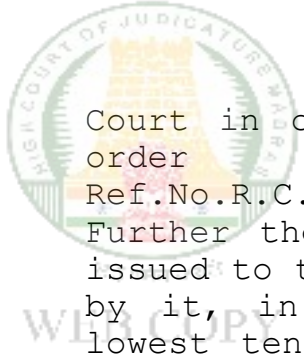
5.2. In this connection, a perusal of the impugned order dated 15.07.2017 of the Second Respondent addressed to the Appellant, among other things, reads as under:-

"As per tender condition Part - I Qualification Bid Clause XI, the tenderer is not blacklisted / debarred either by T.N.C.S.C. or other Public Limited Companies / Government of Tamil Nadu / Government of India. But M/s.Paulthai Lorry Booking Office have already blacklisted for two years by M.D., TNCSC, vide Proc.No.MT10/50594/11, dated 01.02.2016, for tampering of records for the movement of Palmolein oil in Tuticorin District.

Since you have not fulfilled the above Technical qualification Terms and Conditions, your offer considered as not eligible for participating in the Price Bid (Part-II). Hence your offer for the transportation of Essential Commodities of Food Corporation of India movement for 2017-2018 tender rejected as per the tender pre-qualification terms and conditions in respect of Nilgiris Region."

5.3. Likewise, the Appellant in W.P.(MD) No.1402 of 2017 filed W.P.(MD) No.13607 of 2017 praying for passing of an order by this Court to call for the entire records relating to the impugned order passed by the Second Respondent in Ref.No.R.C.No.133/4322/17, dated 18.07.2017 and to quash the same. Further, the Appellant had also prayed for a consequent direction being issued to the Respondents No.1 and 2 to open the price bid submitted by him in respect of Tuticorin Region and thereafter, finalise the lowest tenderer and award transport contract for the period from 01.08.2017 to 30.06.2018.

5.4. Further, the Appellant in W.A.(MD) No.1403 of 2017 had filed W.P.(MD) No.13608 of 2017 praying for passing of an order by this



Court in calling for the entire records relating to the impugned order passed by the Second Respondent in Ref.No.R.C.No.0144/2017/BS2, dated 18.07.2017 and to quash the same. Further the Appellant had prayed for a consequent direction being issued to the Respondents No.1 and 2 to open the price bid submitted by it, in respect of Erode Region and thereafter, finalise the lowest tenderer and award transport contract for the period from 01.08.2017 to 30.06.2018.

5.5.It comes to be known that the Appellant filed W.P.(MD) No.8063 of 2011 on 19.07.2011, praying for passing of an order by this Court in calling for the records in connection with the impugned order of the First Respondent/Regional Tamil Nadu Civil Supplies Corporation, Tuticorin, in Ref.Na.Ka.No.A10/9500/2009, dated 05.07.2017 and to quash the same and in the said Writ Petition, the Appellant obtained an order of interim stay on 20.07.2011 and based on the said interim stay, the Appellant/Petitioner was permitted to take up the tender process for FCI movement for the contract period from 2013-2014. As a matter of fact, this Court, on 10.12.2015, disposed of W.P.(MD)No.8063 of 2011 by directing the Managing Director, Tamil Nadu Civil Supplies Corporation, Chennai -10, to consider the appeal preferred by the Appellant/Petitioner on merits, and pass orders within a period of four weeks from the date of receipt of a copy of that order. Further, this Court, had proceeded to observe that till the Second Respondent passed an order, the interim stay already granted by this Court shall continue and finally, disposed of the Writ Petition. It appears that the appeal of the Appellant was disposed of by confirming the earlier orders.

5.6.The Appellant filed W.P.(MD)No.2712 of 2016 (as Writ Petitioner) seeking to call for the records in connection with the impugned order passed by the Second Respondent/Managing Director, Tamil Nadu Civil Supplies Corporation, Chennai -10 in Ref.No.Se.Mu.Order No.MD/10/50594 of 2011, dated 01.02.2016 and the consequential order passed by the Second Respondent in Re.Na.Ka.No.MD10/50594 of 2011, dated 03.02.2016 and to quash the same.

5.7.A perusal of the impugned order, dated 01.02.2016, passed by the Second Respondent/Managing Director of Tamil Nadu Civil Supplies Corporation, Chennai -10, shows that the Appellant was included in the blacklist for a period of two years and further, it was ordered to forfeit his deposit amount paid by him in respect of the tender in question.

5.8.It transpires from the Second Respondent/Managing Director of Tamil Nadu Civil Supplies Corporation's letter, dated 03.02.2016, to the Regional Manager of Tamil Nadu Civil Supplies Corporation, Thoothukudi and Kanyakumari, wherein after conducting direct talks in the presence of the latter, for the year 2015-2017 from the L2 tenderer, consent letter was advised to be obtained for L1 price



list, with a view to operate and to send the proposal to the Head Office, without fail on 05.02.2016 before 5.00 p.m.

5.9. It is to be noted that this Court in W.M.P.(MD)No.2396 of 2016 in W.P.(MD)No.2712 of 2017, filed by the Appellant (as Writ Petitioner) had passed an order of interim stay of blacklist alone for a period of three weeks on 08.02.2016. Further, this Court passed an order of status quo as on today (08.02.2016) as far as the transportation was concerned.

5.10. Added further, the Appellant had filed W.P.(MD)No.3330 of 2016 seeking to call for the records relating to the order passed by the Managing Director, Tamil Nadu Warehousing Corporation, dated 05.02.2016 appointing the fourth Respondent for Kovilpatti Warehouse and to quash the same. Further, the Appellant sought for consequential order by this Court in directing the Respondents therein to open its price bid and thereafter, appoint the lowest bidder.

5.11. It is to be remembered that in W.P.(MD)No.3330 of 2016 and W.P.(MD)No.2712 of 2016 and W.M.P.(MD)No.2396 of 2016 (filed by the Appellant as Petitioner) against the Managing Director, Tamil Nadu Warehousing Corporation, Chennai and others, this Court, on 31.03.2016 had passed an order extending the interim order already granted for a period of three weeks.

5.12. It is to be pointed out that in W.P.(MD)No.3330 of 2016 (filed by the Appellant) this Court, on 16.02.2016, had ordered notice returnable by 23.02.2016 and on 24.02.2016, posted the W.P.(MD)No.3330 of 2016 along with W.P.(MD)No.2712 of 2016 on 01.03.2016. On 03.03.2016 in W.P.(MD)No.3330 of 2016 and W.P.(MD)No.2712 of 2016 and W.M.P.(MD)No.2396 of 2016, this Court, had directed the matter to be posted on 16.03.2016 for filing counter and till then, extended the interim order already granted in W.P.(MD)No.2712 of 2016. Moreover, on 22.04.2016 in W.P.(MD)No.3330 of 2016 and W.P.(MD)No.2712 of 2016 and W.M.P.(MD)No.2396 of 2016, filed by the Appellant (as Writ Petitioner), this Court passed the following order:-

"Counter filed today. Interim order already granted is extended. Post after vacation."

In fact, W.P.(MD)No.3330 of 2016 filed by the Appellant was dismissed as withdrawn on 19.09.2017.

5.13. In view of the above background, it is the plea of the Appellant that on 22.04.2016, when this Court was pleased to record the filing of counter by the Respondents, extended the interim order without specifying any time limit. However, the same is disputed on behalf of the Respondents No.1 and 2, stating that when the matters were listed before this Court on 31.08.2017, 08.09.2017, 19.09.2017 and 21.09.2017, the interim order was not extended and in fact, the Learned Single Judge had expressed that since the Appellant had not taken any steps to extend the interim order and simply enjoyed the



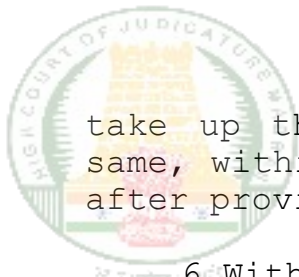
privilege of interim order, could not seek for deemed extension and rejected to extend the interim order.

5.14. On a careful consideration of respective contentions, in the light of surrounding facts and circumstances of the present case in a conspectus fashion and in the teeth of observation made by the Learned Single Judge, in the impugned common order dated 25.10.2017 in W.P.(MD)Nos.13606 to 13608 of 2017, *inter alia* to the effect that 'the order of blacklisting the Petitioner was stayed in W.M.P.(MD) No.2396 of 2016 in W.P.(MD)No.2712 of 2016 for a period of three weeks by an order of this Court dated 08.02.2016. However, subsequently, no record to show that the interim order of blacklisting had been extended and hence, this court is not able to subscribe the contentions made by the Learned Senior Counsel for the Petitioner. Moreover, it is not yet decided in the earlier writ petition as to whether the interim stay is for limited period or not. Hence, untill the issue is settled, the petitioner had no right to put forward such contention'. This Court, with a view to clear the simmering doubt, shroud, cloud and midst hovering around the subject matter in issue, without expressing any opinion one way or other and also not delving deep on the merits of the matter, at this stage, simpliciter, as a matter of propriety, even as a matter of prudent course of action, to give a complete quietus, in a comprehensive manner to the issue on hand, makes an earnest request for 'Denovo Rumination/Consideration' and for passing appropriate orders in W.M.P.(MD)No.2396 of 2016 in pending W.P.(MD)No.2712 of 2016, by the Learned Single Judge, who dealt with the matter ofcourse in the manner known to law and in accordance with law, ofcourse, based on the facts and circumstances of the case, which float on the surface.

5.15. Viewed in the aforesaid perspective, this Court, directs the parties to approach the Learned Single Judge to take up W.M.P. (MD)No.2396 of 2016 in W.P.(MD)No.2712 of 2016 to decide/determine as to whether the interim stay was extended for an indefinite period or the same operates for a limited or for a specified period, in view of the fact that the matter came up for hearings on 31.08.2017; 08.09.2017; 19.09.2017 and 21.09.2017 respectively, and for passing necessary orders, on merits, considering the entire gamut of the matter, within a period of two weeks from the date of receipt of a copy of this order.

5.16. It is open to the respective parties to raise all factual and legal pleas (including the placing of reliance on 'Decided Cases', to their advantage) before the Learned Single Judge at the time of hearing the W.M.P.(MD)No.2396 of 2016 in W.P.(MD)No.2712 of 2016 and to seek redressal of their grievances, if they so desires/advised.

5.17. Before parting with the case, it is lucidly made clear that there is no impediment/fetter for the Learned Single Judge to



take up the main W.P.(MD)No.2712 of 2016, and to dispose of the same, within the time adumbrated by this Court, as per Law, ofcourse after providing necessary opportunities to the respective parties.

6. With the aforesaid Observation(s) and Direction(s), these Writ Appeals stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To:

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai.
2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Sipcot Campus, Tuticorin-628 008
3. The Regional Manager , Tamil Nadu Civil Supplies Corporation,
110, Good Shed Road, Udthagamandalam.
4. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
H-38, A/10, TNHB, Manickampalayam, Erode - 638 011

+2 ccs to Mr.Niranjan S.Kumar, Advocate, SR.No.94059

+One cc to Mr.W.Pamelin, Advocate, SR.No.94903

rj2

RL/8C/17P/KK/SAR1/5/1/2018