



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2017

CORAM:

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.11447 of 2017

and

W.M.P. (MD) .Nos.8822 and 8823 of 2017

M.Jayaraman

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St.George,
Chennai-600 009.
2. The Director of Municipal Administration,
Chennai-600 005.
3. The Commissioner,
Thuraiyur Municipality,
Thuraiyur,
Trichy District.
4. The Tamilnadu Local Bodies Ombudsman,
100, Anna Salai,
Chennai-32.
5. D.Kala (Shop No.1 and 2)
6. R.Manickam(Shop No.3)
7. K.Kuppusamy(Shop No.4)
8. D.Ranjithkumar(Shop No.5)
9. A.Sengayan(Shop No.6)
- 10.M.Rani(Shop No.7)
- 11.M.Nandakumar(Shop No.8)
- 12.C.Rajendran(Shop No.9)
- 13.M.Mohan(Shop No.10)
- 14.T.Ilayaraja (Shop No.11)
- 15.T.Saravanan(Shop No.12)
- 16.M.Adithanrajan(Shop NO.13)
- 17.C.Rani(Shop No.14)
- 18.M.Banumathi(Shop No.15)
- 19.T.Karthikeyan(Shop No.16)



20.S.Ranjithraman(Shop No.17)
21.H.Meenambigai(Shop No.18)
22.K.Maheswari(Shop No.19)
23.K.Valarmathi(Shop No.20)
24.Amirthavalli(Shop No.21)
25.Jothipandian(Shop No.22)
26.P.Natarajan(Shop No.23)
27.Elangovan(Shop No.24)
28.G.Ramesh(Shop No.25)

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent passed on 12.05.2017 and relating to the Auction cum Tender Notice dated 22.09.2015 issued by the 3rd respondent and the consequent shop allotment orders dated 23.10.2015 issued by the 3rd respondent in favour of the 5th to 28th respondents and quash the same and consequently direct the 1, 2 and 3 respondents to issue fresh Auction cum Tender Notice and allot the Shop No.1 to 25 at Old Municipal Office Complex, Thuraiyur through public auction and in transparent manner within a time limit to be fixed by this Court.

For petitioner	: Mr.V.S.V.Venkateshvaran
For R1 & R2	: Mr.M.Govindan Special Government Pleader
For R3	: Mr.M.Rajarajan
For R4	: Mr.Shanmugaraja Sethupathi
For R5 to R9, 11 to 14, 16 to 18 and 20 to 28	: Mr.V.Singam
For R10,15&19	: No Appearance

O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

This writ petition has been filed in public interest by a resident of Thuraiyur.

2.It is his case that Thuraiyur Municipality constructed 25 shops near Thuraiyur Bus Stand and allotted the same to individuals of its choice. The specific complaint of the writ petitioner is that no transparent tender process was adopted. The entire allotment is vitiated by arbitrariness and favouritism. He therefore, has challenged the auction cum tender notice dated 22.09.2015 and the consequential allotment order dated 23.10.2015. The writ petitioner has also arrayed the allottees as respondents 5 to 28.

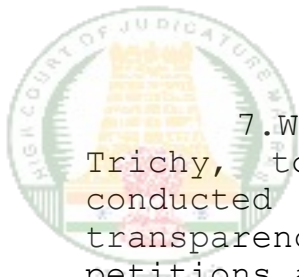
3.Heard the learned counsel for the writ petitioner as well as the learned Standing Counsel for the third respondent

Municipality as well as the learned counsel for the private respondents.

4. The learned counsel appearing for the private respondents contended that the matter was enquired into by the Ombudsman, The Tamil Nadu Municipal Administration and he has already rejected the writ petitioner's allegation vide order dated 12.05.2017 in Order No.113 of 2017 in Complaint No.1301 of 2016. We summoned the third respondent the Commissioner, Thuraiyur Municipality, to appear in person. When a specific question was posed as to how the tender cum auction notification was published, it was submitted that the tender notification was published in a daily by name "Dhinabhoomi". It was further contended that announcement was made through public address system.

5. The Municipality has constructed shops and intended to lease them out. In matters concerning leasing out the public properties, the authority must widely publish the same, so that maximum revenue will be fetched. It cannot be the case of the respondents that the daily "Dhinabhoomi" is having wide circulation in the locality. Merely because, some news paper is empanelled in the list of approved dailies for causing publication of the tender notification, the local body cannot abdicate its duty to cause publication in a daily having wide circulation in the locality. In this case, this requirement has not been fulfilled. Regarding the announcement made through public address system, the less said the better. After going through the materials on record and after hearing the submissions of the learned counsel on either side, we are clearly left with the impression that the tender cum auction process was not conducted in a transparent manner. Article 14 of the Constitution of India mandates that in such cases, the action of the public authority must satisfy the requirement of transparency. Since this requirement has not been met in the present case, this Court has no other option but to allow the writ petition.

6. Accordingly, the writ petition is allowed and the auction is set aside. The matter is remitted to the Local body to conduct a fresh auction, after publishing auction notification in one daily News-paper having wide circulation in the locality like, Dhinamalar and Dhinathanthi etc. The lessees are also permitted to take part in the auction. The auction shall be conducted by two tier system. The applicants have to submit their bids. Thereafter, after opening the bids, there should be an auction among the tenderers taking the highest amount as the upset price. The auction shall be conducted in a transparent manner by the Registrar/Director of Municipal Administration, Trichy. The allottees are permitted to keep the premises in question till the confirmation of lease by the local body in favour of the successful tenderers. The tenants shall vacate and hand over the possession to the local body on the date of confirmation of the tender in favour of the successful tenderers. The proportionate amount due to the concerned lessees should be refunded by the local body.



7. We direct the Commissioner of Municipal Administration, Trichy, to conduct enquiry against the then Commissioner, who conducted the so-called auction in question without any transparency. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Secretary to Government,
State of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai-600 009.
 2. The Director of Municipal Administration,
Chennai-600 005.
 3. The Commissioner,
Thuraiyur Municipality,
Thuraiyur,
Trichy District.
 4. The Tamilnadu Local Bodies Ombudsman,
100, Anna Salai,
Chennai-32.
 5. The Registrar/Director of Municipal Administration,
Trichy.
 6. The Commissioner of Municipal Administration,
Trichy.
- + 1 CC TO Mr.V.S.V.VENKATESVARAN, ADVOCATE IN SR No. 72428
+ 1 CC TO Mr.D.SHANMUGA RAJA SETHUPATHI, ADVOCATE IN SR No. 72082

NS

TE/MR-KKR/SAR-1 : 11/12/2017 : 4P/9C

ORDER MADE IN
W.P(MD)No.11447 of 2017 and
W.M.P. (MD) .Nos.8822 and 8823 of 2017
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