



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2017

CORAM

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. (MD) No. 12374 of 2017

and

W.M.P. (MD) Nos. 9523 and 9524 of 2017

Deepam Trust
No.3/30, Main Road,
Nenmeni - 626 202,
Sattur Taluk,
Virudhunagar District,
Rep. by its
Managing Trustee,
K.Thangapandian

... Petitioner

Vs.

1. The Commissioner
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai - 34.
2. The Additional Commissioner (General),
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai-34.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Sivagangai.
4. The Assistant Commissioner / Executive Officer,
Arulmigu Mariamman Thirukovil, Irukkankudi,
Sattur Taluk, Virudhunagar District.

5. The Hereditary Trustees,
Arulmigu Mariamman Thirukovil,
Irukkankudi, Sattur Taluk,
Virudhunagar District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari to call for and quash the tender notification issued by the 4th and 5th respondents in Na.Ka.No.670/16 A.6 dated 15.06.2017 quash the same as illegal.



For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate for R.1 to R.3

Mr.S.Manohar for R.4

* * * * *

O R D E R

This writ petition has been filed seeking a writ of Certiorari to call for the records pertaining to the impugned tender notification issued by the respondents 4 and 5 in Na.Ka.No.670/16 A6, dated 15.06.2017 and quash the same as illegal.

2. Mr.J.Gunaseelan Muthiah, learned Government Advocate accepts notice for the respondents 1 to 3. Mr.S.Manohar, learned Counsel accepts notice for the fourth respondent. In view of the order that is going to be passed, notice to the fifth respondent is dispensed with.

3. By consent, the main writ petition itself is taken up for disposal.

4. Brief facts leading to the filing of this writ petition, are thus:

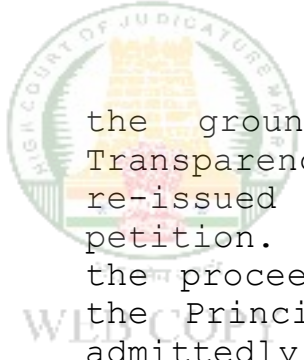
4.1. The petitioner is the Managing Trustee of Deepam Trust and is claimed to have been implementing various projects of uplifting the weaker sections of the society, in particular, women. The third respondent called for tender for cleaning and sanitary work for three years as per his proceedings dated 28.06.2015 and he, having been quoted lowest price, got selected.

4.2. Thereafter, he remitted a sum of Rs.5,00,000/- (Rupees Five Lakhs only) by way of Demand Draft in favour of the third respondent. Despite the same, work order has not been issued to the petitioner, as a result of which, he moved this Court by filing W.P(MD)No.18258 of 2015 before this Court.

4.3. This Court, by order dated 08.10.2015, dismissed the said writ petition as infructuous, while recording the submission of the learned Special Government Pleader, who submitted that the entire tender notification was cancelled by the first respondent by his proceedings dated 07.09.2015. Challenging the same, the petitioner also filed W.P.No.35002 of 2015 before the Principal Seat of this Court and it is pending.

4.4. Meanwhile, the respondents 4 and 5 called for a fresh tender by the impugned tender notification dated 15.06.2017. Aggrieved thereby, the petitioner is before this Court.

<https://hcservices.courts.govt.in/hcservices>
5. The learned Counsel for the petitioner submits that though the first respondent rejected the confirmation of tender issued in favour of the petitioner by his proceedings dated 07.09.2015 on



the ground of violation of provisions of the Tamil Nadu Transparency in Tenders Act, 1998, the very same tender has been re-issued by way of the impugned order in the present writ petition. He further submits that the petitioner also challenged the proceedings of the first respondent dated 07.09.2015 before the Principal Seat of this Court in W.P.No.35002 of 2015 and admittedly, the same is pending.

6. It is also contended that even though a specific direction has been issued by this Court in the order dated 08.10.2015 passed in W.P(MD)No.18258 of 2015 to return the amount already deposited by the petitioner, the same has not been complied with till now.

7. On the contrary, the learned Counsel for the fourth respondent refuted the said contention stating that it was the petitioner who refused to accept the return of the amount deposited.

8. However, the learned Counsel for the petitioner vehemently contended that no such return, as claimed by the learned Counsel for the fourth respondent, was effected as on date.

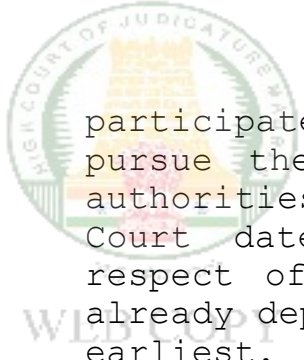
9. I have considered the rival submissions and perused the materials available on record.

10. It is appropriate to reproduce hereunder the relevant portion in the order dated 08.10.2015 passed in W.P(MD)No.18258 of 2015:

"2. When this matter came up for hearing, the learned Special Government Pleader appearing for the respondents fairly submitted that since the tender was not conducted as per Tender Transparency Act, the entire tender proceedings had been cancelled by the first respondent, vide order dated 07.09.2015 and as such the auction of issuing work order does not arise in this case and he has also produced a copy of the same.

3. In view of the above submission made by the learned Special Government Pleader, this Court is of the view that nothing survives for further consideration in this matter. Hence, the Writ Petition stands closed. However, the respondent is directed to refund the amount deposited by the petitioner. No costs. Consequently connected Miscellaneous Petitions are closed."

11. Considering the facts and circumstances of the case that the petitioner has already challenged the cancellation of earlier tender notification before the Principal Seat in W.P.No.35002 of 2015, which is pending as on date and taking into account the earlier round of litigation in respect of the very same issue, this Court is of the view that it is for the petitioner to



participate in the fresh tender process, if he so desires and pursue the same in accordance with law. Needless to say, the authorities concerned shall comply with the earlier order of this Court dated 08.10.2015 passed in W.P(MD)No.18258 of 2015 in respect of the plea of the petitioner for refund of the amount already deposited by him during the earlier tender process, at the earliest.

12. Thus, the writ petition stands disposed of, as above. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To:

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai - 34.
2. The Additional Commissioner (General),
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai-34.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Sivagangai.

+One cc to Mr.S.Manohar, Advocate, SR.No.63735

+One cc to The Special Government Pleader, SR.No.63477

ar/rsb

RL/6C/4P/KP/SAR1/12/7/2017

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