

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 21.09.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) No.17198 of 2017

and

W.M.P. (MD) Nos.13766 & 13767 of 2017

Kodai Automobiles Ltd.,
262, G/2, Madurai Road,
Selvavignesh Nagar,
Tharapuram - 627 358,
Tirunelveli, Tirunelveli District,
Rep. by its
Managing Director

... Petitioner

Vs.

1. The Commissioner of Municipal Administration,
6th Floor, Ezhilagam, Annex Building,
Chepauk, Chennai - 600 005.

2. The Commissioner,
Nagercoil Municipal Corporation,
Nagercoil, Kanyakumari District.

3.K.Saravanakumar

... Respondents

[Against R.3, this petition is dismissed
vide order dated 12.09.2017]

PRAYER:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent Commissioner, Nagercoil Municipal Corporation in Na.Ka.No.21962/2015/E3 dated 23.08.2017, quash the same, and further direct the 2nd respondent Commissioner to pay a sum of Rs.1,41,99,562/- (Rupees One Crore Forty One Lakhs Ninety Nine Thousand Five Hundred and Sixty Two only) i.e., Rs.1,18,50,000/- (Rupees One Crore Eighteen Lakhs and Fifty Thousand only) towards the cost for 25 vehicles, Rs.4,29,562/- (Rupees Four Lakhs Twenty Nine Thousand Five Hundred and Sixty Two Only) towards interest for belated payment and Rs.19,20,000 (Rupees Nineteen Lakhs Twenty Thousand Only) towards loss of opportunity in business.



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For Petitioner : Mr.S.Xavier Rajini

For Respondents : Mr.J.Gunaseelan Muthiah,
Government Advocate for R.1
Mr.P.Athimoolapandian, for R.2
R3-Dismd(Vide Court order
dated 12.09.2017)

ORDER

This writ petition has been filed by the petitioner, seeking a Writ of Certiorarified Mandamus, to quash the impugned proceedings issued by the second respondent in Na.Ka.No.21962/2015/E3 dated 23.08.2017 and further to direct the second respondent to pay a sum of Rs.1,41,99,562/- (Rupees One Crore Forty One Lakhs Ninety Nine Thousand Five Hundred and Sixty Two only) to the petitioner.

2.According to the petitioner, they are one of the dealers for Mahindra & Mahindra vehicles and pursuant to the tender called for by the second respondent, for supplying 25 Four Wheeler Mini Auto Tipper Vehicles, the petitioner applied for the same and the petitioner was declared the successful bidder. Thereafter, the petitioner company was asked to explain about the vehicle before the Technical Evaluation Committee and pursuant thereto, work order was issued to the petitioner and followed by the same, the petitioner delivered 25 Mahindra Jeeto X7-16 vehicles. After supply of these vehicles, the Head of Department (Mechanical Department), University College of Engineering (Anna University Constituent College), Nagercoil, inspected the vehicles and gave their consent, positively, over the same. While so, the second respondent has sent a communication to the petitioner stating that as per the inspection done by the Tamil Nadu State Transport Corporation, there are certain defects in the vehicles and thereafter, the petitioner submitted a detailed explanation to the same. But, all of a sudden, the second respondent issued the impugned proceedings and aggrieved by the same, the petitioner is before this Court and seeking a direction to the second respondent to pay a sum of Rs.1,41,99,562/-. i.e., Rs.1,18,50,000/- towards the cost for 25 vehicles, Rs.4,29,562/- towards interest for belated payment and Rs.19,20,000/- towards loss of opportunity in business.

3.The learned Counsel for the second respondent, on instructions, submitted that as per the inspection made by the Tamil Nadu State Transport Corporation, there are some defects in the vehicles supplied by the petitioner and the said vehicles had not met the specifications as required by the respondent Municipality.



4. It is the specific case of the petitioner that while applying for the tender itself, they mentioned the specifications of their vehicles and being satisfied with the same, the petitioner was permitted to participate in the auction. Moreover, the expert committee from Anna University inspected the vehicles in question and submitted a positive report. Such being the case, the respondent instead of paying the cost of the vehicles, has passed the present impugned proceedings, causing hardship to the petitioner.

5. Heard the learned Counsel appearing on either side and perused the materials placed on record.

6. After a detailed and elaborate argument, it is agreed by both the parties that they will be satisfied, if the dispute is referred to the Commissioner of Municipal Administration, who shall consider the claim of the petitioner and dispose of the same, within a stipulated time limit, in the manner known to law.

7. Under such circumstances, this Court directs the petitioner to submit all the documents before the first respondent/Commissioner of Municipal Administration, Chennai, forthwith, who in turn is directed to look into the issue and take a decision, based on the documentary evidences as well as expert committee reports, after affording due opportunity of hearing to the petitioner as well as the second respondent, within a period of three weeks, thereafter.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Co)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Municipal Administration,
6th Floor, Ezhilagam, Annex Building,
Chepauk, Chennai - 600 005.

2. The Commissioner,
Nagercoil Municipal Corporation,
Nagercoil, Kanyakumari District.

+ 1 cc TO Mr. S. Xavier Rajini, Advocate in SR No. 80593

gk

AE/SV MMS/SAR4/09.10.2017/3P/4C