

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.11.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.A.Nos.1613 & 1555 of 2015

& M.P.Nos.1,1,1 & 1 of 2015

M/s. Deepika Transports

Represented by its Proprietrix

V.Revathi, No.76 12th Avenue,

Ashok Nagar, Chennai - 600 083.

... Appellant/Petitioner
in both Writ Appeals

Versus

1. The General Manager,
The Vellore - Tiruvannamalai District
Co-Operative Milk Producer's Union Ltd., C.1325
(VTDCMPU Ltd.,) No.142, Arcot Road,
Sathuvacheri, Vellore - 632 009.

2. The Managing Director,
Tamil Nadu Cooperative Milk Producers
Federation Ltd.,
Aavin Illam, Madhavaram Milk Colony,
Chennai - 600 051.

3. Government of Tamil Nadu,
Represented by its
Secretary to Government,
Animal Husbandry and Fisheries Department,
Fort St. George, Chennai - 600 009.

4. Karnataka Co-operative Milk Producers
Federation Ltd., Represented by its
Managing Director, KMF Complex,
Dr.M.H.Mari Gowda Road, Bangalore - 560 029

(R4 Impleaded as a party respondent vide order
of Court dated 27.04.2016 made in
C.M.P.No.7586 of 2016)

...Respondents in
W.A.No.1613 of 2015

1. State of Tamil Nadu,
Represented by its Secretary,
Animal Husbandry and Fisheries Department,
Fort St. George, Chennai - 600 009.

2. The Managing Director,
Tamil Nadu Cooperative Milk Producers
Federation Ltd.,
Aavin Illam, Madhavaram Milk Colony,
Chennai - 600 051.

3. The Joint Managing Director
Tamil Nadu cooperative Milk Producers
Federation Ltd., Marketing Unit,
Cooperative Office,
3 - A Pasumpon Muthuramalingam Salai,
Nandanam, Chennai - 35 also at plot
Nos.29 & 30, Industrial Estate,
Ambattur, Chennai - 98.

... Respondents in
W.A.No.1555 of 2015

PRAYER In W.A.No.1613 of 2015:-Writ Appeal filed under Clause 15
of Letters Patent, prays to allow the Writ appeal filed against
the order reserved on 13.11.2014, delivered dated 17.11.2014,
made in W.P.No.28029 of 2014.

PRAYER In W.A.No.1555 of 2015:-Writ Appeal filed under Clause 15
of Letters Patent, prays to allow this Writ appeal by setting
aside the order dated 17.11.2014 made in W.P.No.24501 of 2014.

W.P.No.28209 & 24501/2014:

Petition under Article 226 of the constitution of India
praying for the issuance of a Writ of certiorari

i) To call for the records on the file of the 1st respondent in
Proc. No.Ref. No.9005/B1/12 dated 4.10.2014 and quash the same
as illegal unconstitutional and opposed to the fundamentals of
law and

ii) To call for records in pertaining to the impugned order
passed by the 3rd respondent vide proceedings in Ref. No.2835/P-
I/2014 dated 30.8.2014 and quash the same.

For Appellant

in both Writ Appeals : Mr.V.Raghavachari
for M/s.Avinash Wadhwani

For Respondents

in W.A.No.1613/2015 : Mr.R.Balaramesh
(Special Government Pleader)
for R1 and R2

:M/s.T.Girija
(Government Advocate) for R3

:M/s. S.Indumathi Ravi for R4

For Respondents
in W.A.No.1613/2015:M/s.T.Girija
(Government Advocate) for R1

:Mr.Balaramesh
(Special Government Pleader)
for R2 and R3

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN.,J]

By consent of both parties, both the Writ Appeals are taken up for hearing and are disposed of by this Court by a common order.

2. The facts leading to the filing of this Writ Appeals have been narrated in detail and extenso in the impugned common order dated 17.11.2014 made in WP.Nos. 24501 and W.P.No.28029 of 2014 and for the sake of brevity, it is unnecessary to reinstate the facts once again.

3. The appellant /writ petitioner was awarded contracts for transportation of Milk by various District Cooperative Milk Producers Union as well as by the Tamilnadu Cooperative Milk Producers Federation and alleging certain irregularities, the appellant/writ petitioner was blacklisted vide a communication of the 3rd respondent dated 30.8.2014 and the contracts awarded to them were also terminated by the Vellore- Thiruvannamalai District Cooperative Milk Producers Union Limited, vide impugned communication dated 4.10.2014 and both communications were put to challenge by filing writ petitions. Both the writ petitions were hotly contested and came to be dismissed vide the impugned common order dated 17.11.2014 and challenging the legality of the said common order, the present Writ Appeals are filed.

4. Mr. V. Raghavachari, learned counsel appearing for the appellant/writ petitioner, has invited the attention of this Court to the interim order dated 3.7.2018 made in these writ appeals and submitted that the submission of the learned Additional Advocate General was taken into consideration, wherein, it was clearly submitted in paragraph 3 of the order that it was the fair submission of the learned Advocate General that the order of black listing, which is impugned in one of the writ petitions, will not be made, a basis for rejecting future applications for award of contract by the appellant and also as to the manner in which, the period of back listing is

to be treated in terms of calculating the experience required for the purpose of awarding future contract. It was further submitted by the learned Additional Advocate General that any representation submitted by the appellant /writ petitioner would be considered and accordingly, the Division Bench of this Court in the above said order has granted liberty to the appellant to submit a representation within a period of one week with a further direction to consider and dispose of the same and appropriate orders may be passed on or before 12.8.2018.

5. It is the further submission of the learned counsel appearing for the appellant that the original experience prescribed for awarding the contract was that of transportation should have been made to units which process one lakh liters of Dairy products, per day.

6. The attention of this court was also invited to the communication dated 09.10.2018 in the reference No.9005/B.1/2012 sent by Vellore - Thiruvannamalai District Cooperative Milk Producers Union Ltd, Vellore-9, wherein, the Proprietor of the appellant was also granted liberty to participate in the future tenders and enter into contracts and the experience condition as stipulated above was also altered from 2 years out of 5 years; to 2 years out of 7 years and since the appellant/writ petitioner fulfilled the said qualification, she has also participated in the tender process which is likely to be taken up for consideration by tomorrow and therefore, prays for passing of appropriate orders.

7. Per contra, learned counsel appearing for the respondents would submit that in the light of the order of interim direction passed in these writ appeals on 3.7.2018, The Vellore-Thiruvannamalai District Cooperative Milk Producers Union Ltd. had sent a communication dated 9.10.2018 to the appellant/ writ petitioner, whereby she was granted liberty to participate in future tender and enter into contract and on instructions, would further submit that the earlier experience condition has been now modified as 7 years experience in toto and the appellant/writ petitioner has also submitted a tender for participating in the tender process which is likely to be opened by tomorrow.

8. This Court has considered the rival submissions and also perused the materials on record.

9. It is relevant to extract last paragraph of the communication dated 9.10.2018 of the The Vellore-Thiruvannamalai District Cooperative Milk Producers Union Ltd, Vellore-9 in reference No.9005/B.1/2012, which reads as follows;

'As affirmed during the hearing of the case by the Divisional Bench of Hon'ble High Court, Madras, since the period of block listing expired with 04.10.2017 and as there is no prima facie sustained on the charges as per opinion given State Public Prosecutor, vide 125/2018 dated 06.08.2018 leveled by the show cause notice dated 09.09.2014. The petitioner Mrs.V.Revathy, Proprietrix M/s.Deepika Transports, Chennai is hereby granted liberty to participate in future tenders and the enter into contracts with this union.'

10. It is also brought to the knowledge of this court that the original condition of experience as stated above now has been modified to seven years of total experience.

11.The above cited communication also makes it very clear that the appellant was granted liberty to participate in future tenders and enter into the contract and in the light of the said development, the tender applications/ forms submitted by the appellant to the respondents shall be processed in accordance with the terms and conditions of the tender, subject to fulfilment of the other eligibility criteria, along with tender applications submitted by the other intended bidders, if any.

12. The Writ Appeals stand disposed of accordingly. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

msr/dh
To

1. The General Manager,
The Vellore - Tiruvannamalai District
Co-Operative Milk Producer's Union Ltd., C.1325
(VTDCMPU Ltd.,) No.142, Arcot Road,
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3. The Secretary,
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5. The Secretary,
Animal Husbandry and Fisheries Department,
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Cooperative Office,
3 - A Pasumpon Muthuramalingam Salai,
Nandanam, Chennai - 35 also at plot
Nos.29 & 30, Industrial Estate,
Ambattur, Chennai - 98.

+3 Ccs to M/s. Avinash Wadhwani, Advocate sr 77956.
+1 CC to Mr.S. Indumathi Ravi, Advocate sr 77954
+1 CC to Mr.R. Balaramesh, Advocate sr 77786

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W.A.Nos.1613 & 1555 of 2015

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NRL(CO)
SP(15/11/2018)