

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.10196 of 2018
and
W.M.P.No.12132 of 2018

R.Jayamohan

.. Petitioner

Versus

1.The District Collector,
Salem District,
Salem.

2.The Assistant Director of Town Panchayat,
Salem District,
Salem.

3.The Executive Officer,
Selection Grade Town Panchayat,
Tharamangalam,
Salem District.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records relating to the impugned proceedings of the 3rd respondent in Na.Ka.No.7/2018/A1, dated 02.04.2018 and quash the same.

For Petitioner : Dr.R.Gouri

For Respondents : Mr.V.Shanmuga Sundar

Special Government Pleader for R1 & R2

Mr.M.Jothikumar for R3

O R D E R

Heard Dr.R.Gouri, learned counsel for the petitioner, Mr.V.Shanmuga Sundar, learned Special Government Pleader for the respondents 1 and 2 and Mr.M.Jothikumar, learned counsel for the third respondent and perused the materials available on record.

2. This writ petition has been filed challenging the proceedings of the third respondent dated 02.04.2018.

3. Pursuant to the tender notification dated 02.02.2018, auction was conducted for collecting the toll fee for the year

2018-2019 in the Selection Grade Town Panchayat, Tharamangalam, Salem District. The petitioner has participated and declared as the highest bidder for an amount of Rs.92,599/-. The third respondent in proceedings dated 02.04.2018, cancelled the condition No.4, by which the petitioner was permitted to collect Rs.5/- per day for every Van, Lorry and Tempo travellers.

4. According to the learned counsel for the petitioner, only based on the notification and on reasonable expectation, that the successful bidder can collect the toll fee for all the vehicle entering into the bus stand, the petitioner participated in the auction and quoted Rs.92,599/-. But, the impugned order has been passed without providing an opportunity to the petitioner and against the principles of audi alteram partem.

5. Learned counsel for the 3rd respondent by referring the counter affidavit filed by the third respondent submitted that the condition No.4 was mistakenly typed, which was not in the auction notification.

6. The impugned order has been assailed mainly on the ground that the petitioner was not given an opportunity and it has been passed violation of principles of natural justice. Perusal of the records shows that no opportunity was given to the petitioner before passing the impugned order. This Court opines that the petitioner should have been heard before any adverse orders passed against him.

7. In that view, the order impugned in this writ petition is set aside and the matter is remitted back to the third respondent, who shall pass orders afresh, after affording an opportunity of personal hearing to the petitioner and in accordance with law.

8. With the above direction, this writ petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Salem District,
Salem.

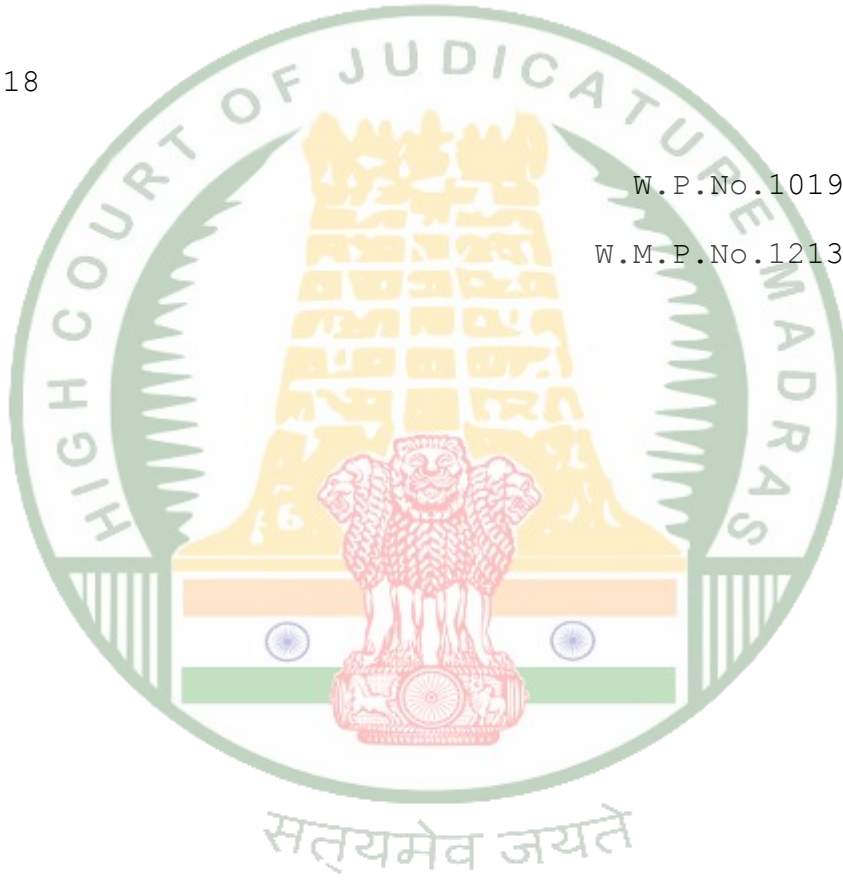
2.The Assistant Director of Town Panchayat,
Salem District,
Salem.

3.The Executive Officer,
Selection Grade Town Panchayat,
Tharamangalam,
Salem District.

+lcc to M/s.Dr.R.Gouri, Advocate Sr.No.43469
+lcc to Government Pleader SR.No.44573

CNR(CO)
sm:20.7.2018

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