

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9.8.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH, ACJ
AND
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.20520 of 2018
and
W.M.P.Nos.24121 & 24122 of 2018

Hariprasath

.. Petitioner

Versus

1 The Government of Tamil Nadu
Rep. by its Chief Secretary
Secretariat Fort St. George
Chennai - 600 009

2 The Government of Tamil Nadu
Rep. by its Secretary
Backward Classes, Most Backward Classes &
Minorities Welfare Department
Secretariat Fort St. George
Chennai - 600 009

3 The Commissioner
Directorate of Backward Classes Welfare
Ezhilagam Annexure Building II Floor
Chepauk Chennai - 600 005

4 Hero Cycles Ltd
Rep. by its Director
2A/3 Kundan Mansion
Asaf Ali Road Delhi

5 Tube Investments of India Ltd
Rep. by its Director
Dare House 2 NSC Bose Road
Chennai - 600 001

6 Avon Cycles Ltd
Rep. by its Director
G.T. Road Dhandari Kalyan
Ludhiyana

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 1st respondent to appoint a committee under the head of retired High Court Judge to conduct or probe into the scam in purchasing free bicycles for the School girls and boys for the year 2016 to 2017.

For petitioner : Mr.T.Gopinath

For RR1 to 3 : Mr.T.N.Rajagopalan,
Government Pleader

ORDER

(Order of the court was made by S.S.SUNDAR, J.)

The writ petition has been filed seeking issuance of a mandamus directing the 1st respondent to appoint a committee under the head of retired High Court Judge to conduct or probe into the scam in purchasing free bicycles for the School girls and boys for the year 2016 to 2017.

2. The petitioner has filed the present writ petition as a Public Interest Litigation alleging that there is irregularity in the tender process for purchasing bicycles meant for distributing to the school boys and girls for the year 2016-17, by prescribing eligibility criteria so as to award tender only in favour of respondents 4 to 6. It is further stated that the prices quoted by the three companies are higher than other Companies. The eligibility for a tenderer is that it should have produced and sold a minimum of 1,50,000 bicycles per annum in last 3 years. From this, the petitioner wants this court to conclude that the State has created an artificial monopoly by making only respondents 4 to 6 eligible to participate. Respondents 4 to 6 are leading manufacturers of cycles in India. The petitioner himself admits that for more than 15 years, respondents 4 to 6 are supplying cycles. Every year, not less than 3 different companies are awarded the contract. It is also the specific case of the petitioner that those three Companies viz., respondents 4 to 6 are supplying bicycles at a lower price to other States when compared to the State of Tamil Nadu and thereby a huge loss to the tune of Rs.36 crores is sustained by the State of Tamil Nadu because of the price hike made by respondents 4 to 6 during supply of bicycles for the last three years (2015-16 to 2017-18).

3. Heard the learned counsel appearing for the petitioner and Mr.T.N.Rajagopalan, learned Government Pleader on behalf of respondents 1 to 3.

4. A scrutiny of the documents produced would disclose that the subject tender in respect of which the scam is alleged, pertains to 2016-2017 whereas the relative tender document relied upon by the petitioner to compare the price relates to the year 2017-2018. Apart from that the tender conditions would also disclose that the specifications of bicycles and other terms of supply are different and the price quoted by the companies are with reference to the specifications required by the State of Tamil Nadu. Unless the petitioner has proof to show that for the same year and for the same type of bicycles, with same specifications, the prices are different, one cannot presume or draw inference that there is serious irregularity in prescribing conditions while inviting tenders.

5. It is well settled that the essential conditions for tenderers should be on the basis of settled principles. However, if any arbitrariness or illegality is there, it is for the petitioner to approach the authority concerned or the court ultimately this court. Mere bald allegations or certain documents which are not sufficient to direct for probing into the issue and any orders passed based on such allegations would result in mere falsity or without any basis. Therefore, for want of sufficient material, this writ petition may have to be disposed. However, if the petitioner has not got any prima facie material to show the arbitrariness or illegality, it is for the petitioner to approach the appropriate forum like Vigilance and Anti Corruption Cell or this court ultimately.

6. With the above observation, the writ petition is disposed of. No costs. The connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

ssk.

To:

- 1 The Government of Tamil Nadu
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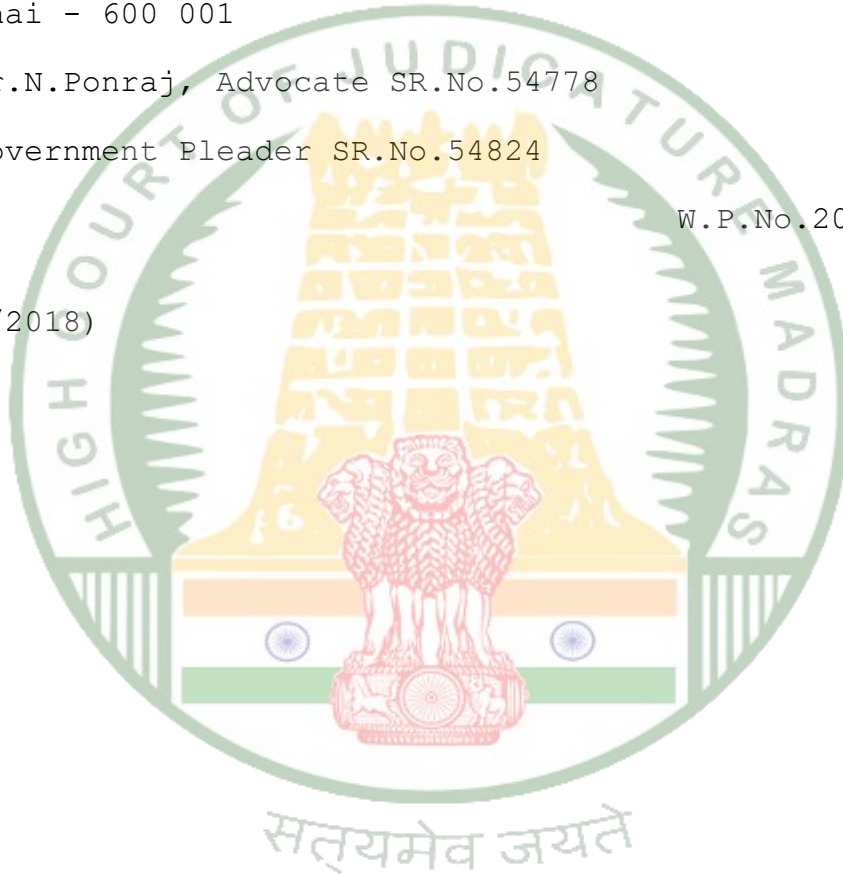
4 Tube Investments of India Ltd
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+1cc to Mr.N.Ponraj, Advocate SR.No.54778

+1cc to Government Pleader SR.No.54824

W.P.No.20520 of 2018

GMV (30/10/2018)



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