

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.05.2018

C O R A M

THE HONOURABLE Mr.JUSTICE C.V.KARTHIKEYAN

W.P.No.12567 of 2018

and

W.M.P.Nos.14721 & 14722 of 2018

K.Muniappan

...Petitioner

Vs.

1.Corporation of Salem,
Rep.by its Commissioner,
O/o.Corporation of Salem,
Fort, Salem.

2.Assistant Commissioner,
Corporation of Salem,
Suramangalam Ward Office,
Salem.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned auction cum tender notice in K1/6097/2015;K1/1/2017 Dated 07.05.2018 issued by the 2nd respondent in the name of 1st Respondent and quash the same in respect of 'Pay and Use' toilets in Salem New Bus Stand, situated at Achuvan Tank(Eri) New Bus Stand and nearby cycle-stand mentioned in Serial No.2 and consequently direct the Respondents to extend the petitioner's lease for the year 2018-2019 after revising the lease amount and adjustment of compensation to be computed mutually, as agreed by the 2nd

Respondent in N.K.No.K1/6097/2015 dated 26.03.2018 within a reasonable time to be fixed by this Hon'ble Court.

For Petitioner	: M/s.R.Neelakandan
For Respondents	: Mrs.K.Bhuvaneswari Additional Government Pleader

ORDER

The petitioner had participated and had been declared as the successful bidder in the tender given by the first respondent for collecting charges from the toilets in the Salem New Bus stand. The terms of the offer was that it was originally granted for the year 2016-2017 and it can be extended for one more year and there would be an increase of five percent in the value of the tender. It can also be extended for a further period of one year with a further increase of five percent. Consequently, the petitioner would have the opportunity of performing his duties as the successful tenderer for the year 2016-17, 2017-18, 2018-19. However, the learned counsel for the respondents had stated that the petitioner has been very irregular in making payments to the respondents. There are arrears. Even the previous month's payment has not been made. In fact, notices have been issued to the petitioner calling upon him to deposit the amount, which according to the respondents is the arrears amount payable by the petitioner. The petitioner has not complied with the said demand to pay the arrears and consequently, left with no other alternative, the respondent had commenced to once again let out on auction the very same work which had been entrusted to the

petitioner without cancelling the agreement with the petitioner challenging such auction which is to be conducted on 22.05.18, the petitioner has filed the present writ petition.

2. Even in the notice, for the auction, it had been stated that it would be conducted on 22.05.2018 or any other date to which it is postponed. Since the petitioner is working for the respondent in his capacity as a successful bidder and according to the respondent, the petitioner is due and payable sums of money and since there is dispute with respect to the amount which the petitioner has to pay, instead of proceeding with auction, the respondent may give a final notice to the petitioner, consolidating the amount receivable from petitioner and payable by him for the years 2016-2017, 2017-2018 and also in the year 2018-2019. The respondents may consolidate the amount and issue notice and seek for payment from the petitioner. For this purpose, the petitioner is also permitted to give his representation in writing and give his statement of accounts. Thereafter, the respondent has to give a personal opportunity to the petitioner to decide the issue and thereafter take a decision to let out the work on auction or any other decision which respondents decide from re-tendering the entire work. The learned counsel appearing for respondent also states that the respondent should have the liberty to cancel the license granted to the petitioner. That is a prerogative which vests with the respondent. Before such action is taken, it is made clear that the

petitioner is to be afforded full opportunity of being heard.

C.V.KARTHIKEYAN.,J

rka/kak

3. With these observations the writ petition stands disposed of. No costs.
Consequently, connected miscellaneous petitions are closed.

17.05.2018

Internet : Yes / No
Index : Yes / No
Speaking / Non-speaking

rka/kak

To

1.The Commissioner,
Corporation of Salem,
O/o.Corporation of Salem,
Fort, Salem.

2.Assistant Commissioner,
Corporation of Salem,
Suramangalam Ward Office,
Salem.

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