

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.No.2939 of 2018  
and  
W.M.P.Nos.3601 & 3602 of 2018

Jasmine Rafilal

... Petitioner

Vs.

1. Life Insurance Corporation of India,  
Anna Salai,  
Chennai - 600 002.

2. Senior Divisional Manager (E & OS)  
LIC Divisional Office,  
Vellore Division,  
60D, Arcot Road,  
Vellore-632 004

... Respondents

This writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for all the records of the 2<sup>nd</sup> respondent more fully culminating into the impugned Fresh Tender advertisement dated 22.01.2018 issued in the Tamil daily Thinathanthi (Vellore edition) and quash the same and consequently direct the 2<sup>nd</sup> respondent to restore the original tender advertisement dated 21.08.2017 issued in the Tamil Daily Thinathanthi and award the contract of lease to the petitioner whose offer was in total conformity with the tender conditions/ stipulations.

For Petitioner : Mr.M.K.Hidayatullah

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O R D E R

The petitioner is aggrieved against the tender notice dated 22.01.2018 published in the newspaper in respect of taking a property on lease to locate the office of the first respondent Corporation at Polur.

2. Heard the learned counsel for the petitioner.

3. The case of the petitioner is as follows:

The first respondent invited the tender earlier on 21.08.2017 for the very same purpose and the petitioner participated by making her tender. However, without consider the tender submitted by the petitioner and in order to

facilitate some third party, the respondents cancelled the said tender notification and issued a fresh tender notification which is impugned in this writ petition. Therefore, the petitioner contends that a fresh tender notification cannot be sustained without considering the petitioner's earlier tender submitted in pursuant to the earlier tender notification.

4. I do not think that the petitioner is entitled to canvass against the issuance of the fresh tender notification when admittedly the respondents have chosen to cancel the entire tender process made in pursuant to the issuance of earlier tender notification dated 21.08.2017. Therefore, the petitioner cannot be stated as an aggrieved person merely because she submitted the tender in pursuant to such notification. The very same issue was already considered by this Court and decided against the petitioner in a case reported in 2017(6) CTC 785 (CSEPDI-TRISHE CONSORTIUM, rep. by its Managing Director), more particularly, at paragraph No.57 of the said order, which reads as follows:

57) No doubt, the petitioner has elaborately pointed out that the petitioner's response made to the defect and deficiencies pointed out by the respondents 1 to 3 would satisfy that their tender was not liable to be rejected and on the other hand, it ought to have been accepted. I do not think that the petitioner is entitled to succeed on this ground, assuming that their explanation/remarks are having some justification, for the simple reason that the TANGEDCO has not selected any other tender, while rejecting the tender of the petitioner. On the other hand, the TANGEDCO has also rejected the other tender of the fourth respondent, when, admittedly, these parties alone had reached the evaluation stage. When such being the case, the petitioner cannot plead that the TANGEDCO should have accepted their tender and that the rejection is arbitrary. In my considered view, the question of arbitrariness or unreasonableness or colourable exercise of power may be pressed into service, only when both the element of rejection of one party and selection of another party exist in a given case. On the other hand, if the owner decides to reject all the tenders and go for fresh process, that too, with new change in policy with regard to the financial commitment of the project, no participant in the earlier process can question such decision, how so ever they are meritorious in the earlier process. Certainly, there is no prohibition or bar against anyone including

the petitioner and the fourth respondent from taking part in the subsequent tender process. Without utilising such opportunity, the petitioner is not entitled to plead arbitrariness or malafide in the action of the respondents 1 to 3.

5. Therefore, it is for the petitioner to take part in the subsequent tender if the petitioner satisfies the requisite qualification, provided she has sufficient time to take part. Accordingly, I do not find any merits in the writ petition. Thus, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Deputy Registrar

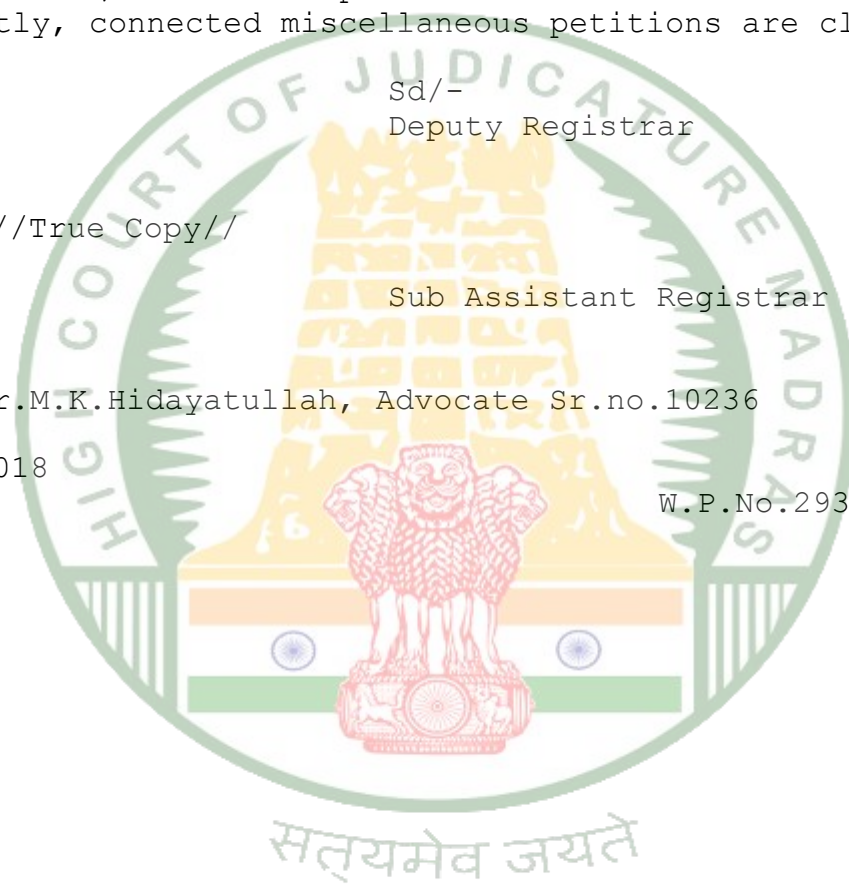
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Sub Assistant Registrar

+1cc to Mr.M.K.Hidayatullah, Advocate Sr.no.10236

sm:19.2.2018

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