

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.15837 OF 2018

AND

W.M.P.NOS.18834 AND 18835 OF 2018

C.Dhanasekar

... Petitioner

Vs.

1.The District Manager
TASMAC Limited
Thiruvallur (East)
Chennai - 600 123

2.Duruva Traders
No.10, Madhavaram Milk Colony
Thiruvalluvar Nagar
Chennai - 600 051

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in Na.Ka.No.1170/A1/2018 dated 05.05.2018 and quash the same and consequently direct the 1st respondent to call for fresh tender as per notification dated 19.04.2018.

For Petitioner : Mr.D.Bharathy

For Respondent : Mr.P.Arumugha Rajan

ORDER

Heard Mr.D.Bharathy, the learned counsel appearing for the petitioner and Mr.P.Arumugha Rajan, the learned Standing Counsel appearing for the respondent.

2.The petitioner has filed this writ petition challenging an notification issued by the respondent finalizing a tender for collection of empty bottels and scrap items in the Bar attached

to the TASMAL Retail vending Shop No.107. This Court, on being prima facie satisfied that the impugned order is erroneous, granted an order of interim stay on 28.06.2018. The said order reads as follows:

"Heard Mr.D.Bharathy, learned counsel appearing for the petitioner.

2.The petitioner participated in an auction conducted by the respondent-TASMAL for grant of licence to collect empty bottles and scrap items in the Bar attached to the TASMAL Retail Vending Shop No.107.

3.The petitioner's case is that the contract has been awarded in favour of the 2nd respondent much below the upset price fixed in the auction-cum-tender notice dated 19.04.2018.

4.It is pointed out that so far as the upset price, which was fixed for empty bottles was Rs.3.10 ps. whereas it has been awarded to the 2nd respondent at Rs.2.89Ps. Similarly, for waste paper per kilo, minimum upset price was Rs.8/-, whereas, the tender has been awarded for Rs.4.99Ps. Furthermore, in the impugned proceedings dated 05.05.2018, there is a reference that negotiation was held with the 2nd respondent. It is pointed out that the said negotiation is unnecessary under the terms of the auction-cum-tender notice. On the very same date, the 2nd respondent paid the security deposit and the receipt number is also left blank. Therefore, the petitioner has been able to prima facie satisfy this Court there has been arbitrary to exercise of power.

5.In the light of the same, the impugned proceedings shall remain stayed till the writ petition is heard and disposed of. Notice to the 1st respondent is accepted by Mr.P.Arumugarjan, learned Standing Counsel. Notice to the 2nd respondent through Court and privately returnable by 23.07.2018.

List for hearing on 23.07.2018."

3. The first respondent did not dispute the factual finding recorded by this Court in the above referred order. In fact, learned counsel for the first respondent, on instruction, would state that the first respondent themselves would withdraw the impugned order.

4. In the light of the above, the writ petition is allowed and the impugned order is quashed and the liberty is granted to the first respondent to proceed in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

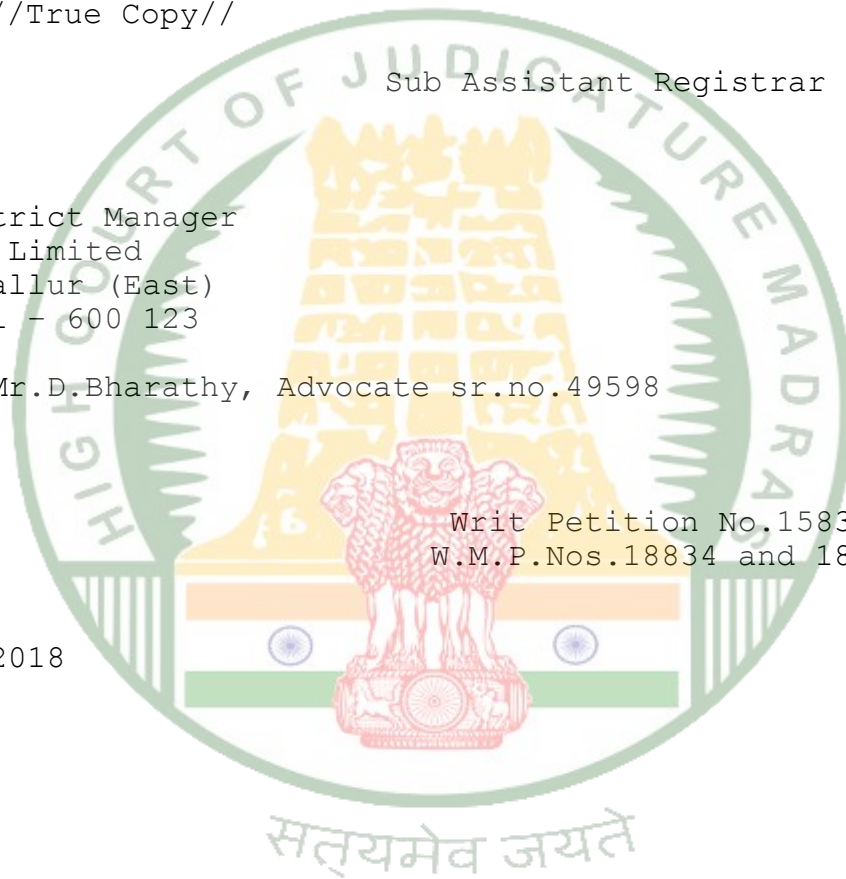
To

1.The District Manager
TASMAC Limited
Thiruvallur (East)
Chennai - 600 123

+1cc to Mr.D.Bharathy, Advocate sr.no.49598

Writ Petition No.15837 of 2018 &
W.M.P.Nos.18834 and 18835 of 2018

svn(co)
nr 03/08/2018



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