



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2018

CORAM :

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) Nos.4239 and 4256 of 2018
and

W.M.P(MD)Nos.4389 to 4391 and 4371 and 4372 of 2018

Pandi Muneeshwarar Self Help Group
by its President, Sathya,
Alamelu Compound,
Othakadai, Madurai District. ... Petitioner in W.P(MD)
No.4239/2018

Karuppasamy Women Self Help Group,
Rep by its President,
M.Parimalarani,
No.127/C, Ponnuthai Ammal Compound,
Ponmeni Puthur,
Arasaradi,
Madurai District. ... Petitioner in W.P(MD)No.4256/2018

Vs.

The Commissioner,
Madurai Corporation,
Madurai. ... Respondent in both W.Ps.

Prayer in W.P(MD)No.4239 of 2018: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari Mandamus, to call for the records relating to the impugned auction notice published by the respondent corporation in a Dina Thanthi dated 22.02.2018 in so far as it relates to serial Nos.1 3 9 and quash the same and consequently direct the respondent to renew the license of the petitioner in respect of pay and use public toilets situated in Platform No.1 2 (Gents) and the toilet situated near Hotel Marina (Gents) in Mattuthavani Bus stand now renamed as M.G.R.Bus Stand, Madurai.

Prayer in W.P(MD)No.4256 of 2018: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari Mandamus, to call for the records pertaining to the impugned Notification for the public auction published in Dina Thanthi on 22.02.2018 in Ma.Va.3/001240/18 dated 21.02.2018 on the file of the Respondent and set aside the same as illegal and consequently direct the Respondents to extend the license period for at least one year in respect of male toilets situated in Platform No.3 and 4 at M.G.R.Bus Stand, Madurai.



For Petitioner
(In W.P(MD)No.4239/2018)

: Mr.Issac Mohanlal,
Senior Counsel for
Mr.K.Samidurai

For Petitioner
(In W.P(MD)No.4256/2018)

: Mr.T.Lajapathi Roy,

For Respondent
(In both W.Ps)

: Mr.N.Shanmugalselvam
Standing Counsel

COMMON ORDER

The writ petitions have been filed challenging the public auction notification issued by the respondent Corporation for granting licence to maintain various public toilets at M.G.R. Bus Stand and Omnibus Bus Stand at Madurai.

2.The main grievance of the petitioners is that they are self help group formed by women and earlier, a resolution was passed by the respondent Corporation resolving to grant licence to the women self help group for the maintenance of the public toilets and for the previous years, the licence was also granted to them. Now, all of a sudden, the respondent Corporation brought the public toilets for auction against the resolution passed by the respondent corporation. Further, the respondent Corporation, while issuing public notification, did not follow other mandatory requirements.

3.Admittedly, earlier, the very same notification was challenged before this Court in W.P(MD)No.13958 of 2016 and this Court by an order dated 11.10.2017 dismissed the said writ petition and directed the respondent Corporation to conduct public auction. Challenging the said order, some other self help group filed writ appeals in W.A(MD)SR.Nos.46743, 46753 and 46748 of 2017. The Division Bench of this Court by an order dated 27.02.2018 disposed of the appeals directing the appellants therein to submit representation to the respondent Corporation for getting preference and also directed the respondent Corporation to proceed with the tender process. The relevant portion of the said order reads as follows:-

"4.The settled legal position is that a licensee has no vested right to continue beyond the license period. A license is not transferable and it will come to an end on the date when it expires. Therefore, if at all the petitioners want to continue further, it can be only by way of fresh license and there could be revised terms and conditions. Apart from that the contract awarded for maintenance of the pay and use toilets is for the public convenience. Since the toilets are constructed by the Corporation of Chennai and revenue is earned out of it,



there should be a transparent procedure adopted by the Corporation while granting license for maintaining pay and use toilets. If in the opinion of the respondent Corporation, organizations like the petitioners have to be given preference, it is well open to them to do so in a proper manner without any arbitrariness or capriciousness. Therefore, we find that the direction issued in the writ petition is just and proper and it is well open to the petitioner to represent to the respondent that may be given preference since they are women self help groups and a resolution is stated to have been passed by the Council earlier. However, we are not inclined to issue any positive direction in this regard and leave the decision to the respondent Corporation with a caveat, that their decision should be free from arbitrariness and satisfy the tests of Article 14 and 19(1) (g) of the Constitution.

5.The learned counsel appearing for the Corporation, on instructions submitted that already tender process has started, notification has issued. We direct the petitioners to participate in the tender and may also represent to the respondent Corporation to give them preference, which if made to be considered in the light of the observation made in paragraph 4, supra. Till the tender process is completed, the petitioner shall not be disturbed."

4.In the above circumstances, as already the Division Bench of this Court permitted the similarly placed persons like that of the petitioners to submit representation, the petitioners are also directed to submit their representations to the respondent Corporation today (06.03.2018) itself seeking preference. As the auction is scheduled to be conducted on 09.03.2018, the respondent Corporation is directed to consider the representations of the petitioners and pass appropriate order, as per the directions of the Division Bench referred above, on or before 08.03.2018.

5.With the above direction, the writ petitions are disposed of. No costs. Consequently, W.M.P(MD)Nos.4389 to 4391 and 4371 and 4372 of 2018 are closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar



To

The Commissioner,
Madurai Corporation,
Madurai.

WEB COPY

+1cc to Mr.K.Samidurai, Advocate Sr.No.53227
+2cc to Mr.N.Shanmugalselvam, Advocate Sr.No.53194,53195
+1cc to Mr.T.Lajapathi Roy, Advocate Sr.No.53167

SMS

VB/SKN/RSK/SAR3/06.03.2018/4P/6C

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