



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2018

CORAM:

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.8413 of 2018
and
W.M.P.(MD) No.7957 of 2018

Iqbal Sate

... Petitioner

vs.

1. The Director of Municipal Administration
Chepauk, Chennai

2. The District Collector
Tiruchirappalli District

3. S.Kannanoor Town Panchayat
rep.by its Executive Officer
Mannachanallur Taluk
Tiruchirappalli District

4. N.Kumaran
Executive Officer (in-charge)
S.Kannanoor Town Panchayat
Mannachanallur Taluk
Tiruchirappalli District

5. The Special Officer
S.Kannanoor Town Panchayat
Mannachanallur Taluk
Tiruchirappalli District

6. E.T.Seenivasan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents 1 to 3 and 5 to conduct the re-auction for Item No.3, licence to collect fee in the third respondent's weekly market and the Goat Market situated in S.No.252 in Schedule-I of the Tender Notification, dated 12.01.2018 in Na.Ka.No.33/2018 A1, issued by the respondents 3 and 5.



For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader for R1 to R4
Mr.M.Saravanakumar for R5
Mr.Prabhu Rajadurai for R6

O R D E R

Admittedly, the petitioner herein had not participated in the tender process initiated pursuant to the tender notification, dated 12.01.2018. The only ground raised by the learned counsel for the petitioner is that there was an onerous condition in the tender schedule that the bid amount has to be deposited within 24 hours and in the absence of any clarity facilitating the successful bidders to pay the bid amount in installments, the petitioner is an aggrieved person and therefore, he has locus standi to maintain the writ petition. In support of his contentions, the learned counsel for the petitioner placed reliance upon the decision of the Honourable Apex Court in Ramana vs. I.A.Authority of India, reported in AIR 1979 SC 1628 and the order of this Court, dated 31.07.2008, passed in W.P.Nos.6425 & 6426 of 2008 [M/s.MSPL Gases Limited vs. M/s.Steel Authority of India Limited and others].

2. The doctrine of locus standi is well settled to the effect that writ petition challenging the tender process by a person, who has not taken part in the same, cannot be maintained. Various Courts have held that such a non-participant cannot be deemed to be an aggrieved person.

3. In the Judgment relied by the petitioner in Ramana's case (cited supra), the Honourable Apex Court has held as follows:

"9. That takes us to the next question whether the acceptance of the tender of the 4th respondents was invalid and liable to be set aside at the instance of the appellant. It was contended on behalf of the 1st and the 4th respondents that the appellant had no locus standi to maintain the writ petition since no tender was submitted by him and he was a mere stranger. The argument was that if the appellant did not enter the field of competition by submitting a tender, what did it matter to him whose tender was accepted; what grievance could he have if the tender of the 4th respondents was wrongly accepted. A person whose tender was rejected might very well complain that the tender of someone else was wrongly accepted, but, it was submitted, how could a person who never tendered and who was at no time in the field, put forward such a complaint? This argument, in our opinion is misconceived and cannot be sustained for a moment. The grievance of the appellant, it may be noted, was not that his tender was rejected

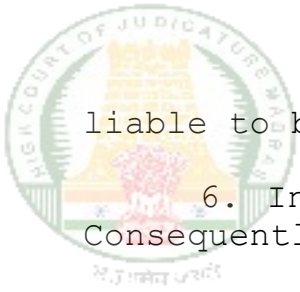


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as a result of improper acceptance of the tender of the 4th respondents, but that he was differentially treated and denied equality of opportunity with the 4th respondent in submitting a tender. His complaint was that if it were known that non-fulfilment of the condition of eligibility would be no bar to consideration of a tender, he also would have submitted a tender and competed for obtaining a contract. But, he was precluded from submitting a tender and entering the field of consideration by reason of the condition of eligibility, while so far as the 4th respondents were concerned, their tender was entertained and accepted even though they did not satisfy the condition of eligibility and this resulted in inequality of treatment which was constitutionally impermissible. This was the grievance made by the appellant in the writ petition and there can be no doubt that if this grievance were well founded, the appellant would be entitled to maintain the writ petition. The question is whether this grievance was justified in law and acceptance of the tender of the 4th respondents was vitiated by any legal infirmity."

4. On a careful reading of the observation made by the Honourable Apex Court, it is seen that the petitioner therein was differentially treated and was denied equality of opportunity with that of the successful bidder. It is in this background, the Honourable Apex Court had come to the conclusion that a non-participant could challenge the tender process. But, in the instant case, it is not the case of the petitioner that he was differentially treated and that he was denied equality of opportunity with that of the successful bidder. As a matter of fact, nine persons had participated in the tender process and submitted their bids. It is the grievance of the petitioner that the condition with regard to the deposit of the successful bid amount was onerous. I am unable to comprehend as to how that could be treated as a discrimination or denial of equality of opportunity. As such, the above observation of the Honourable Apex Court may not be helpful to the petitioner.

5. Insofar as the order of this Court, dated 31.07.2008, passed in W.P.Nos.6425 & 6426 of 2008 [M/s.MSPL Gases Limited vs. M/s.Steel Authority of India Limited and others] is concerned, it is seen that the petitioner therein had participated in the tender process and it is only during the further course of the tender process, he had not participated. In the instant case, the facts are totally different and the petitioner herein had not even participated in the tender process and as such, he may not have locus standi to file the writ petition and the same is, therefore,



liable to be dismissed.

6. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

Sub Assistant Registrar

To:

1. The Director of Municipal Administration,
Chepauk, Chennai.
2. The District Collector,
Tiruchirappalli District.
3. The Executive Officer,
S.Kannanoor Town Panchayat,
Mannachanallur Taluk,
Tiruchirappalli District.

+1CC to Mr.M.Saravanakumar Advocate in SR.No.62671,
+1CC to Mr.M.P.Senthil Advocate in SR.No.62845,
+1CC to Mr.G.Prabhu Rajadurai Advocate in SR.No.62664,
+1CC to Special Government Pleader in SR.No. 62715.

KRK

DS/SV/MMS/SAR-1 :11.10.2018: 4P/8C

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