



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

and

THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

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W.A. (MD) No. 911 of 2018 against WP(MD)NO.10775/2010
and C.M.P. (MD) Nos. 5899 and 5900 of 2018

C. Rengaraju, ... Apellant/Sixth Respondent

-Vs-

1. Sampath ... First Respondent/Petitioner

2. The Director of Municipal Administration,
Ezhilagam, Chepauk, Chennai - 600 005.

3. The District Collector,
Trichy District, Trichy,

4. S. Kannanoor Town Panchayat,
Rep. By its Executive Officer,
Mannachanallur Taluk, Trichy District.

5. N. Kumaran,
Executive Officer (in-charge),
S. Kannanoor Town Panchayat,
Mannachanallur Taluk, Trichy District.

6. The Special Officer,
S. Kannanoor Town Panchayat,
Mannachanallur Taluk,
Trichy District.

... Second to Sixth Respondents/
First to Fifth Respondents

PRAYER : Writ Appeal filed under Clause 15 of Letter Patent, praying to set aside the order of this Court in W.P. (MD) No. 10775 of 2010 dated 21.06.2018.

Prayer in WP(MD)No. 10775/ 2010 :

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus directing the respondents 1 to 5 to conduct re-auction for item No.1 in schedule I of the Tender Notification of the respondents 3 and 5 dated 12/01/2018 in Na.Ka.No.33/2018 A1 for license to collect vehicle fee in the 3rd respondent panchayat.



For Appellant : Mr. Veerakathiravan (Senior Counsel)
for M/s.Veera Associates
For Respondents : Mr. T. Mohan,
for Mr. N.C. Ashok Kumar (For R1)

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Mr. A.K. Baskarapandian
Special Government Pleader (For R2 & R3)

Mr. K. Siva Senthil Murugan (For R4)
for Mr.M.Saravana Kumar
No Appearance (For R5 and R6)

JUDGMENT

(Judgment of the Court was delivered by P.D. AUDIKESAVALU, J.)

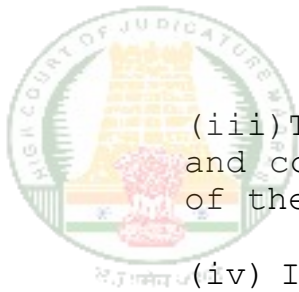
This intra-court appeal arises out of the judgment dated 21.06.2018 in W.P. (MD) No. 10775 of 2010 passed by the learned Judge of this Court directing the Official Respondents to conduct re-auction for item No. 1 in Schedule 1 of the tender notification dated 12.01.2018 issued by the Special Officer, S. Kannanoor Town Panchayat, Mannachanallur Taluk, Trichy District, in Na. Ka. No. 33/2018/A1 for licence to collect vehicle fee in that Town Panchayat.

2. We have heard the learned Counsel appearing for the parties and perused the impugned judgment in which the material facts of the case have been fully captured and we are broadly, in agreement with the reasons assigned by the learned Judge in allowing the Writ Petition, which is in consonance with the established legal principles that the paramount consideration in awarding largesse through tender is to ensure procurement of the highest amount for the public exchequer after affording equality of opportunity in participation to all eligible persons. Hence, we are not inclined to interfere with the impugned judgment.

3. The directions issued in para 14 of the impugned judgment is extracted below:-

"14. (i) The auction that was held on 06.03.2018 pursuant to the Notification dated 12.01.2018 in Na. Ka. No. 33/2018/A1 insofar as item No. 1 is set aside subject to the successful re-auction for the same item by a fresh Tender Notification on the same terms and conditions to be issued by the Third Respondents Panchayat within 10 days from the date of receipt of copy of this order.

(ii) In the interest of Corporation, for the re-auction for item No. 1, the upset price for item No. 1 in the schedule for the Tender Notification, dated 12.01.2018, shall be fixed at Rs.1,68,00,000/-



(iii) The Tender Notification should be on the same terms and conditions as to the eligibility and as to the payment of the Tender amount.

(iv) If there is no bidder to bid, the Petitioner should be declared as the successful bidder for the amount of Rs.1,68,00,000/-. The Petitioner has paid a sum of Rs.84,00,000/- today by way of demand draft drawn in favour of Third Respondent and the Counsel appearing for the Respondents 3 and 4 has acknowledged the receipt of the same. The remaining amount will be paid on the date of confirmation.

(v) In case, the Petitioner is unable to participate in the Tender or bid for the amount mentioned above, the Respondents 3 and 4 are at liberty to appropriate any portion of amount to compensate any loss on account of re-tender, from the amount given by the Petitioner today by way of demand draft.

(vi) Since the Petitioner as well as the Sixth Respondent have already deposited substantial amount, they need not pay any security deposit/earnest money deposit.

(vii) It is stated that the Sixth Respondent was collecting vehicle fee pursuant to the auction that was held on 06.03.2018 and thereafter, the local body itself has made arrangements to collect the fees from the vehicle. If any shortage of period it will be taken note for the purpose of reducing the amount proportionately or by giving extension of time which ever is convenient to Respondents 3 and 4."

Learned Counsel appearing for the Fifth Respondent, on instructions, submits that the following modifications may be made to the aforesaid directions:-

(i) Notice of the aforesaid re-tender shall be published in Tiruchirapalli edition of Tamil daily 'Thina Thanthi', circulating in Tiruchirapalli District, on or before 30.11.2018.

(ii) Since substantial time has lapsed during the pendency of the legal proceedings, the initial period of licence shall be restricted for the period from 01.01.2019 to 31.03.2019, and the licence fee shall be proportionately collected from the successful bidder for that period.

(iii) The successful bidder shall be entitled for renewal of licence for the subsequent periods from 01.04.2019 to 31.03.2020 and from 01.04.2020 to 31.03.2021, by



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remitting the licence fee with increase of 5% of the amount of the entire previous year on or before 20th day of February of the respective previous years, failing which re-tender shall be conducted at the risk and cost of the successful bidder in terms of Clause (13) of the tender Notification dated 12.01.2018.

- (iv) The Appellant and the First Respondent shall be entitled to submit fresh bids, which shall be higher than the upset price fixed at Rs.1,68,00,000/-, and if they are not the successful bidder, the amounts deposited by them earlier shall be refunded (subject to permissible deductions) without interest within a period of 10 days of the award of the contract to the successful bidder.

The aforesaid directions issued by the learned Judge in the impugned judgment shall stand modified to that extent and approved in all other respects. It shall also be ensured that all other legal requirements including the relevant provisions of the Tamil Nadu Transparency in Tenders Act, 1998, and the Rules made therein are scrupulously followed. The Executive Officer, S. Kannanoor Town Panchayat, Mannachanallur Taluk, Trichy District, shall file Action Taken Report with copies of supporting documents before the Registrar (Judicial) of this Court by 26.12.2018.

5. Resultantly, we confirm the judgment dated 21.06.2018 in W.P. (MD) No. 10775 of 2010 passed by the learned Judge of this Court and dismiss the Writ Appeal with the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed. No Costs.

Sd/-

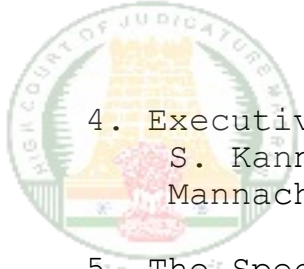
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Director of Municipal Administration,
Ezhilagam, Chepauk, Chennai - 600 005.
2. The District Collector,
Trichy District, Trichy,
3. Executive Officer,
S. Kannanoor Town Panchayat,
Mannachanallur Taluk, Trichy District.



4. Executive Officer (in-charge),
S. Kannanoor Town Panchayat,
Mannachanallur Taluk, Trichy District.

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

Copy to

The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr. N.C. Ashok Kumar, Advocate, SR.No.95494
+1CC to M/S.Veera Associates, Advocate, SR.No.95667
+1CC to Mr.M.SARAVANA KUMAR, Advocate, SR.No.95850

W.A. (MD) No. 911 of 2018
15.11.2018

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