

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.3676 of 2019  
and W.M.P.Nos.4039 and 4040 of 2019

Skyrams Outdoor Advertisings India Pvt.Ltd.  
rep.by its authorised signatory,  
Old No.67A, New No.59, Bharathi Colony,  
Peelamedu, Coimbatore-641 004.

...Petitioner

Vs

- 1.The Government of Tamil Nadu  
rep.by its Chief Secretary  
Fort St.George, Chennai-600 009.
- 2.The Principal Secretary to Government,  
Municipal Administration and Water Supply Department  
Fort St.George, Chennai-600 009.
- 3.The District Collector,  
Coimbatore District, Coimbatore-641 018.
- 4.Coimbatore City Municipal Corporation  
rep.by its Commissioner,  
Coimbatore-641 001.
- 5.Coimbatore Smart City Limited,  
rep.by its Managing Director,  
Big Bazaar Street,  
Coimbatore-641 001.
- 6.Tamil Nadu Electricity Generation and  
Distribution Corporation Ltd.,  
rep.by the Superintending Engineer,  
Coimbatore Electricity Distribution Circle,  
Coimbatore-641 012.

...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records of the fourth respondent in Roc.No.15/2017/JN4 dated 30.01.2019 and quash the same.

For Petitioner : Mr.Kandhan Duraisami

For Respondents : Mr.V.Shanmugasundar, Spl.GP  
For R1 to R3

Mr.J.Sathyanarayana Prasad for R4

O R D E R

By consent of the learned counsel on either side, the writ petition itself is taken up for final disposal.

2.The petitioner is an advertising agency. The third respondent floated a tender for installation of electronic display boards with air quality monitoring systems including operation and maintenance on DBOT basis as a part of Small City Mission initiated by the Government of India. The petitioner submitted its tender for installation and commissioning of the display boards. The technical bid of the petitioner was accepted and letter of acceptance has been issued accepting the contract value of the petitioner. An agreement was also executed by the petitioner for installation and commissioning of the boards on 15.02.2018 and the fourth respondent has also issued a No Objection Certificate for provision of 30 electronic digital boards on 13.08.2018. While so, the fourth respondent unilaterally cancelled the agreement without any notice to the petitioner on 30.01.2019. Hence this writ petition.

3.According to the learned counsel for the petitioner, the impugned order has been passed without assigning any reason and that too, without affording any opportunity to the petitioner and hence the action of the fourth respondent in passing the impugned order is violative of the principles of natural justice and therefore, the same has to be quashed.

4.The learned counsel for the fourth respondent-Corporation submitted that as per Clause-11 of the Instructions to Bidders in respect of the agreement dated 15.02.2018, there is no necessity for issuing notice to the petitioner for cancellation of the agreement.

5.In the case on hand, on a perusal of the impugned order, it is seen that the order is cryptic and no reasoning has been given by the fourth respondent for cancelling the agreement, which is violative of the principles of natural justice under Articles 14 and 16 of the Constitution of India. In the case of Karnataka State Forest Industries Corporation v. M/s.Indian Rocks, reported in AIR 2009 SC 684, the Hon'ble Supreme Court, relying upon its earlier judgment in ABL International Limited v. Export Credit

Guarantee Corporation of India Limited, reported in (2004) 3 SCC 553, has held that in cases where the State action is arbitrary, discriminatory and violative of Article 14 of the Constitution of India, the writ petition would be maintainable. Following the principles enunciated in the above stated judgments of the Hon'ble Supreme Court, this Court has no hesitation to interfere with the impugned order, in the case on hand.

6.The learned counsel for the petitioner, on instructions, submitted that if this Court is inclined to interfere with the impugned order, certainly the fourth respondent will afford an opportunity to the petitioner and pass appropriate reasoned order.

7.In view of the above stated circumstances, the following order is passed:

(a)The impugned order dated 30.01.2019 is quashed;

(b)The fourth respondent Corporation is directed to issue show cause notice to the petitioner, within a period of two weeks from the date of receipt of a copy of this order, duly mentioning the reasons for such cancellation;

(c)On receipt of such show cause notice by the petitioner, the petitioner shall submit his explanation within a period of two weeks, thereafter;

(d)On receipt of explanation to the show cause notice, the fourth respondent Corporation shall pass appropriate orders in accordance with law, within a period of four weeks, thereafter.

8.The writ petition is allowed in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

KM

Sd/-  
Assistant Registrar

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

To

1. The Chief Secretary to Government,  
Government of Tamil Nadu  
Fort St.George, Chennai-600 009.
2. The Principal Secretary to Government,  
Government of Tamil Nadu,  
Municipal Administration and Water Supply Department  
Fort St.George, Chennai-600 009.

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Tamil Nadu Electricity Generation and  
Distribution Corporation Ltd.,  
Coimbatore Electricity Distribution Circle,  
Coimbatore-641 012.

+1cc to Mr.J.Sathya Narayana Prasad, Advocate, S.R.No.10518

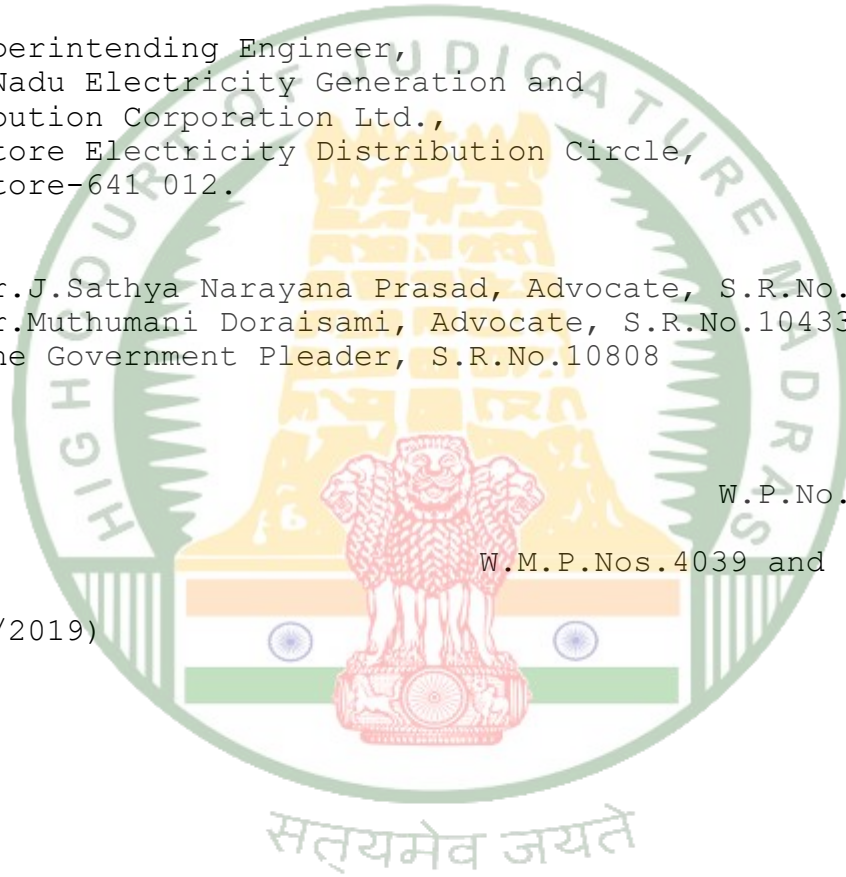
+1cc to Mr.Muthumani Doraisami, Advocate, S.R.No.10433

+1cc to the Government Pleader, S.R.No.10808

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