

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 28-08-2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.Nos.1425, 1426, 1451, 1454, 1455,
1456, 1459, 1461 & 1462 of 2019

- 1.State of Tamil Nadu,
represented by its Principal Secretary,
Secretariat,
Fort St.George,
Chennai-600 009.
- 2.Social Welfare and Nutritious Meal
Programme Development,
Secretariat,
Fort St.George,
Chennai-600 009.
- 3.Director cum Mission Director,
Integrated Child Development Services,
Pammal Nallathambi Street,
Taramani,
Chennai-600 113. ... Appellants in WA.No.1425/2019

The State of Tamil Nadu Rep by
The Principal Secretary to Government
Social Welfare and Nutritious meal
Programme (SW,4-3) Department
Fort St.George Chennai-600 009 ..Ist Appellant in WA.No.1426/19
1451/19,1454/19,1455/19,
1456/19,1459/19,1461/19
1462/19

The Director Cum Commission Director
Integrated Child Development Services
Pammal Nallathambi Street,
Taramani, Chennai-600 113

..2nd Appellant in WA.1426/19
1451/2019,1454/19 1455/19
1459/19,1461/19,1462/19

...3rd Appellant in WA.No.1456/19

Social Welfare and Nutritious meal
Programme Department
Secretariat, Fort St.George
Chennai-600 009

...2nd Appellant in WA.No.1456/19

-vs-

1.M/s.Sri Vengamamba Poultry Farm

2.Tamil Nadu Poultry Farmers
Association

.... Respondents in WA.1425/2019

1 NATURAL FOOD PRODUCTS
REP BY ITS AUTHORIZED SIGNATORY
T.GNANASEKARAN 8/392 CHINNA VEPPANATHAM
TRICHY ROAD VASANTHAPURAM POST
NAMAKKAL TK NAMAKKAL DIST

2 NATURAL FOOD PRODUCTS
REP BY ITS AUTHORIZED SIGNATORY
T.GNANASEKARAN ...WA.No.1426 of 2019

1 M/S.SUNTHAR POULTRY FARM RE
P. BY ITS PROPRIETOR M.SUNTHARARAJAN

2 TAMIL NADU POULTRY FARMERS
ASSOCIATION REP.BY ITS PRESIDET P.CHINRAJ
(R3 IMPEADED AS PER THE ORDER OF THIS COURT
DATED 25.09.2018 IN W.P.NO.28406/2018..WA.No.1451/2019

1 M/S.KISAN POULTRY FARM
A PARTNERSHIP FIRM
2 M.GOPINATH

- 3 S.NIZAM SHEIF
4 P.KARTHIKEYAN
5 T.SELVAKUMAR
6 G.RAMARAJ
PARTNERSHIP FIRM NO.164/4A
KARUPPATIPALAYAM THUMMANKURICHI VILLAGE
NAMAKKAL DISTRICT REPRESENTED BY THEIR
AUTHORISED SIGNATORY S.KRISHNAN ...WA.No.1454 of 2019
- 1 M/S. VASUKI POULTRY FARMS
REP. BY ITS AUTHORIZED REPRESENTATIVE.
VALLIPALAYAM MANMANGALAM POST
KARUA -639 006.
- 2 TAMIL NADU POULTRY FARMERS
ASSOCIATION REP.BY ITS PRESIDENT P.CHINRAJ
(R3 IMPEADED AS PER THE ORDER OF THIS COURT
DATED 25.09.2018 IN W.P.NO.28014/2018 ...WA.No.1455 of 2019
- 1 M/S. SR. VENGAMAMBA POULTRY
FARM REP.BY M.P. VENKAGTRAMANA MANAGER
BRAHMANA PALLI (V) KRISHNAPURAM MARRIPADU
(M) SPSR NELLORE DT.
- 2 TAMIL NADU PULTRY FARMERS AS
SOCIATION INTEGRATED BY ITS PRESIDENT P.
CHINRAJ (R4 IMPEADED AS PER THE ORDER OF
THIS COURT DATED 25.09.2018 IN
WMP NO.28012 OF 2018 ..WA.No.1456 of 2019
- 1 M/S SUVARNAMBHOOMI ENTERPRIS
ES PVT LTD REPBY ITS AUTHORISED SIGNATORY
MR.R.LOKESHKUMAR O.2 AMMAN NAGAR
KARAYAMAPALAYAM MYLAMPATTI OST COIMBATORE
641 062
- 2 M/S SUVARNABHOOMI ENTERPRISE
S PVT LTD REP BY ITS AUTHORISED SIGNATORY
R.LIKESHKUMAR ..WA.No.1459 of 2019
- 1 APPU FOOD PRODUCTS
REP BY ITS AUTHORISED SIGNATORY MRS.UMA
MAHESWARI K-1 SIDCO INDUSTRIAL ESTATE
VADALUR CUDDALORE DIST TN

4.WP.No.24369/2018:Calling for the records of the first respondent relating to GO (Ms) No.57 dated 20.8.2018 Social Welfare and Nutritious Meal Program (NMP.3) Department and the consequential Tender No.Roc.20304/NMP/2018 dated 20.08.2018 issued by the second respondent quash the same and direct the respondents to revert to state-level yearly tender

5.WP.No.22956/2018:To call for the records in the G.O.Ms.No.57 Social Welfare and Nutritious Meal Programme Department dated 20.08.2018 issued by the 1st respondent and the consequential tender notification issued by the 2nd respondent in Roc.No.20304/NMP/2018 dated 20.08.2018 and quash the same and consequently direct the respondents to float block wise tender for procurement of eggs by revising the terms and conditions in the interest of the small poultry farmers.

6.WP.No.22945/2018:To call for the records pertaining to G.O.Ms.No.57 Social Welfare and Nutritious Meal Programme Department dated 20.08.2018 issued by the 2nd respondent and quash the same and consequently direct Respondents 2 and 3 to allow Poultry farmers from other states to participate in the tender.

7.WP.No.25284/2018:to call for the records relating to G.O.(Ms) No.57 dated 20.08.2018 on the file of the first respondent culminating in the Tender Notification No.ROC. 20304 / NMP / 2018 dated 20.08.2018 on the file of the second respondent and quash the same and consequently direct the respondents herein to issue a fresh tender notification on the basis of G.O.(Ms)No.264 dated 17.10.2012

WP.No.22878/2018:Calling for the records of the first respondent contained in the impugned GO.(Ms) No.57 dated 20.08.2018 and all consequential proceedings thereto including Tender No. Roc.20304/NMP/2018 dated 20.08.2018 issued by the Second Respondent and to quash the same as arbitrary unjust and illegal.

WP.No.26282/2018:to call for the records of the 2nd respondents Tender Notice in ROC.No.20304/NMP/2018 dated 20.8.2018 and quash the same as illegal and arbitrary.

For Appellants in all Writ Appeals : Mr.Vijay Narayan,
Advocate General,
assisted by Mr.A.N.Thambidurai,
Spl.Govt.Pleader.
For Respondent 1 in W.A.No.1425/2019: Mr.C.Seethapathy
For Respondents in W.A.No.1426/2019 : Mr.M.S.Krishnan,
Senior Counsel,
for Mr.K.Kumaresh Babu.
For Respondent 1 in W.A.No.1451/2019: Mr.Lesi Saravanan
For Respondent in W.A.No.1454/2019 : Mr.P.M.Sozhendran
For Respondent 1 in W.A.No.1455/2019 : Mr.M.Padmanaban
For Respondent 1 in W.A.No.1456/2019 : Mr.C.Seethapathy
For Respondents in W.A.No.1459/2019 : Mr.G.Masilamani,
Senior Counsel,
for Mr.Mani Sundargopal R1
For Respondent 1 in W.A.No.1461/2019 : Mr.Arun Karthik Mohan
For Respondents in W.A.No.1462/2019 : No appearance

COMON JUDGMENT
(By Dr.Vineet Kothari,J.)

Mr.Vijay Narayan, learned Advocate General, appearing for the Appellants-State, submits that the State has filed an Affidavit in the Court today in the present Appeals.

2. The Affidavit of Mrs.S.Madumathi, I.A.S., functioning as Secretary to Government, Social Welfare & Nutritious Meal Programme Department, Secretariat, Chennai, is taken on record.

3. The learned Advocate General has drawn our attention to Para 17 of the aforesaid Affidavit, which is quoted below :

'17. It is humbly submitted that the PTMGR Nutritious Meal Programme is the State's flagship programme under which provision of egg caters the nutritious needs of nearly 58 lakh beneficiaries. For the past 9 months, without adopting any tender procedure, eggs are being procured based on the orders of the Hon'ble High Court. Now, since the orders of the Learned Single Judge has not been stayed, in order to discover the current price of egg, pending disposal of the Writ Appeals filed by the Government, the Hon'ble High Court is humbly requested to permit the Government to float a fresh State Level Annual Tender by following G.O.(Ms) No.264, Social Welfare and Nutritious Meal Programme Department, dated 17.10.2012, as per the Hon'ble High Court order dated 21.02.2019, and pass such other and

further orders as may be deemed fit and proper.''

4. The learned Advocate General has also submitted that the present Writ Appeals, filed against the order, dated 21.02.2019, of the learned Single Judge, disposing of a batch of Writ Petitions in W.P.No.22878 of 2018 (Appu Food Products v. State of Tamil Nadu) and others, may be disposed of, by recording the aforesaid undertaking of the State, taking the policy decision to go back to the earlier policy of floating fresh State Level Annual Tender, by following G.O.(Ms) No.264, Social Welfare and Nutritious Meal Programme Department, dated 17.10.2012, as the new Scheme of region-wise floating of Tenders has virtually failed.

5. On the said statement of Para 17 of the Affidavit of the Secretary to Government, quoted above, which is not disputed by the learned counsel on other side, we dispose of all these Writ Appeals, with liberty to the State, as prayed for.

6. The learned Advocate General undertakes that until the new Bidder/Contractor is selected under the aforesaid new process, the existing suppliers will continue to supply eggs for the Nutritious Meal Programme to the students at the same rate as has been done by them so far and they will also be free to participate in the fresh Tenders.

7. The learned Advocate General also undertakes to float new Tenders within a period of three months from today.

8. The above undertakings of the learned Advocate General are also taken on recorded.

9. No costs. Consequently, the connected C.M.P.Nos.9841, 9846, 9948, 9960, 9966, 9967, 9975, 9985 and 9986 of 2019 are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dixit

To

1.The Principal Secretary
Secretariat
Fort St.George
Chennai-600 009

2.The Principal Secretary Government
Social Welfare and nutritious meal
Programme (SW 4-3) Department
Fort St.George Chennai-600 009

3.The Director cum mission Director
Integrated Child development services
Pammal Nallathambi Street,
Taramani, Chennai- 600 113

4. Social Welfare and Nutritious meal
Programme Department
Secretariat, Fort St.George
Chennai-600 009

+3 ccs to M/s.Mani Sundargopal Advocate sr73994,74772
+2 cc to M/s.Lesi Saravanan Advocate sr75667
+1 cc to M/s.C.Seethapathy Advocate sr75166
+1 cc to Government Pleader sr 75529
+3 ccs to M/s.K.Kumaresh babu Advocate sr74949

W.A.No.1425/2019 & BATCH

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aa05/09/2019