



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

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W.P. (MD) No. 14721 of 2019

and

W.M.P. (MD) Nos. 11138 and 11139 of 2019

T. Dharmalingam

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Health and
Family Welfare Department,
Secretariate, Chennai 600 009.

2. The Director of Medical Education,
O/o. the Director of Medical Education,
Kilpauk, Chennai 600 010.

3. The Dean,
Government Rajaji Hospital,
Madurai 625 020.

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in respect of tender notification issued by the 3rd respondent in Ref.No.14391/s/2/1/2019 - C dated 19.06.2019 and quash the same and consequently, direct the respondents to call for fresh tender in respect of items mentioned in the impugned tender by following the procedures contemplated in the guidelines for condemnation by notifying the name of the condemned articles and Tamil Nadu Transparency in Tenders Act, 1998 and Rules, 2000.

For Petitioner : Mr. M. Saravanakumar

For Respondents : Mr. V. Anand, G.A.

O R D E R

The prayer in the Writ petition is for Writ of Certiorarified Mandamus, to call for the records in respect of tender notification issued by the third respondent vide proceedings in Ref.No.14391/s/2/1/2019 - C dated 19.06.2019 and quash the same and consequently, direct the respondents to call



for fresh tender in respect of items mentioned in the impugned tender by following the procedures contemplated in the guidelines for condemnation by notifying the name of the condemned articles and Tamil Nadu Transparency in Tenders Act, 1998 and Rules, 2000.

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2. Heard Mr.M.Saravanakumar, learned counsel for the petitioner and Mr.V.Anand, learned Government Advocate appearing for the respondents.

3. Challenging the tender notification dated 19.06.2019 issued by the third respondent to clear the disposed medical waste, the petitioner has moved this Writ petition.

4. Notice was given to the respondents and Mr.V.Anand, learned Government Advocate, who accepts notice, has filed counter affidavit of the third respondent, wherein, the third respondent fairly admitted the mistake crept in issuing the tender notification by giving various dates of schedule in the tender notification. The relevant portion of the said admission is in paragraph No.9 of the counter, which reads thus:

"9) It is humbly submitted that the last issue of tender form is mentioned wrongly by typographical error as 3.6.19 instead of 3.7.19 and last date of tender bid is mentioned also wrongly by typical error as 4.6.19 instead of 4.7.19. Hence, no conditions in Tender Act to submit the tender bid in person. The tender notification has been published also in notice board of this hospital. The tenderer were participated from all over Tamil Nadu. Hence, they were sent their tender bid by courier services so as to reach this office before due date."

5. The learned Government Advocate for the respondents also submitted that in view of the wrong dates mentioned in the tender notification, the respondents have not received even a single tender.

6. In view of the above, this Court is of the view that instead of having a defective tender schedule notification, the same can be withdrawn and a fresh tender notification can be issued, where whatever the mistakes or error committed in the present impugned tender notification, can be rectified and accordingly, a fresh tender notification, strictly in accordance with the provisions of the Tamil Nadu Transparency in Tenders Act and the rule framed thereunder, can be issued by the third respondent.



7. In that view of the matter, the present tender notification, which is impugned is hereby quashed and the matter is remitted back to the third respondent to issue a fresh corrected tender notification.

8. Accordingly, this Writ petition is ordered. No costs. Consequently, connected W.M.Ps. are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal Secretary to Health and Family Welfare Department,
The State of Tamil Nadu, Secretariate, Chennai 600 009.

2. The Director of Medical Education, O/o. the Director of Medical
Education, Kilpauk, Chennai 600 010.

3. The Dean, Government Rajaji Hospital, Madurai 625 020.

+1cc to the Spl. Govt. Pleader, SR.No.73731

+1cc to Mr. M. Saravanakumar, Advocate, SR.No.73262

nbj

W.P. (MD) No. 14721 of 2019

03.07.2019

NA (23.07.2019) 3P : 6C