



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.04.2019
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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W.P. (MD) .No.4332 of 2019
and
W.M.P. (MD) No.3430 of 2019

M.Yacobu

... Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Collectorate Campus, Kokkirakulam,
Tirunelveli - 627 009.

2. The Executive Engineer,
Water Resources Department/Public Works Department,
Chittar River Basin Division,
Tenkasi, Tirunelveli District.

3. The Assistant Engineer,
Water Resources Department/Public Works Department,
Chittar River Basin Division,
Pavoorchathiram, Tirunelveli District.

4. The Tahsildar,
Manur Taluk,
Manur, Tirunelveli District.

5. Appadurai

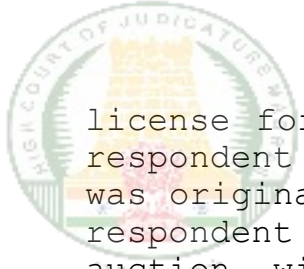
... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent herein to cancel the auction conducted by the third respondent on 01.02.2019 with regard to the grant of license for fishery rights in Manur Big Tank situated at Manur Taluk, Tirunelveli District.

For Petitioner : Mr.S.P.Maharajan
For R-1 to R-4 : Mr.R.Sethuraman,
Special Government Pleader.
For R-5 : Mr.H.Arumugam

O R D E R

The Writ petitioner is a resident of Mathavakurichi Village. His father is having agricultural lands and he is one of the Ayacutdars of Manur tank. The grievance of the Writ petitioner is that without proper publication, the third respondent had granted



license for fishing rights in the said tank in favour of the fifth respondent herein. According to the Writ petitioner, the auction was originally scheduled to be held on 07.01.2019 and that the third respondent cancelled the same and stated that the next date of auction will be intimated. But the behind back of the Writ petitioner and others, a formality of an auction was conducted on 01.02.2019 and the fifth respondent was announced as the highest bidder. Challenging the same and demanding cancellation of the license issued in favour of the fifth respondent, this Writ petition has been filed.

2. Whenever the outcome of a tender or auction is challenged, the person approaching the Court must be asked to demonstrate his *bona fides*, if the challenge is on the grounds of public interest. But where the challenger is a rival claimant, it is only just and proper that he is put on certain threshold terms. Recently, this Court set aside a tender on certain technical grounds and directed that a fresh tender should be conducted. But in the fresh tender, the person who approached this Court did not make any higher bid at all. That is why, this Court called upon the petitioner to bring a Demand Draft for a higher sum. The fifth respondent had taken the license by paying a sum of Rs.1,71,450/-. The petitioner in order to show his *bona fides* produced a Demand Draft for a sum of Rs.2 Lakhs. After being satisfied that the petitioner is a serious tenderer, this Court took up the matter for hearing on merits.

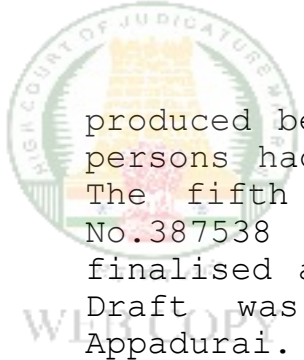
3. The official respondents as well as the fifth respondent have filed their counter affidavits.

4. The learned counsel appearing for the Writ petitioner reiterated the contentions set out in the affidavit filed in support of this Writ petition.

5. His core contention is that there is nothing on record to show that there was proper publication indicating the auction date.

6. I am unable to agree with the aforesaid contention of the Writ petitioner. The auction was originally scheduled to be held on 17.12.2018. But the local villagers lodged a strong protest and that led to the cancellation of the auction. It was postponed to 07.01.2019. On the said date also, there was objection from the villagers that participation by outsiders cannot be permitted. Therefore, the auction could not take place on the said date and it was adjourned. It was held on 01.02.2019. But on the said date, the fifth respondent was declared to be a highest bidder.

7. The petitioner claims that he was very much present in the auction venue on 07.01.2019. If earlier the Writ petitioner had intention to participate, he would have definitely brought with him a Demand Draft for a sum of Rs.50,000/-. But there is nothing on record to indicate that the petitioner went to the auction venue with an intention to take part. The auction minutes have been



produced before me. It is seen that on 07.01.2019, as many as 10 persons had taken part. Each of them had produced Demand Drafts. The fifth respondent Appadurai produced a Demand Draft bearing No.387538 for a sum of Rs.50,000/-. Since the auction was not finalised and it was adjourned to 01.02.2019, the very same Demand Draft was produced by the fifth respondent herein, namely, Appadurai. On 01.02.2019, there were as many as 6 participants. The protest lodged by the local villagers was because Manur tank which receives water from Chittar river is also an irrigation tank. Therefore, water filled in the tank is to be maintained in such a way as not to affect the interests of the Ayacutdhars. That is why the villagers lodged protest against the participation by outsiders. The Writ petitioner is very much a resident of the village in question. His father is one of the Ayacutdhars. The respondents produced photographs and news item that appeared in popular media about the protest of the local villagers.

8. Even according to the Writ petitioner, he was not aware that the auction was to be held. The authorities have convincingly demonstrated that the auction was actually conducted on 07.01.2019 but that it could not be finalised. The Writ petitioner being a local resident must have been aware of the postponement of the auction and also that it was to be subsequently held on 01.02.2019. It is not as if Mathavakurichi is a big village. This is all the more so because, it is submitted that the Writ petitioner was an employee of the local Panchayat. This Court declines to believe that the petitioner was not aware of the holding of the auction on 01.02.2019.

9. There is yet another consideration. The learned counsel appearing for the fifth respondent has convincingly demonstrated before me that the fifth respondent has not taken the lease for his personal ends. He is only a representative of the local farmers association. In other words, the entire villagers have taken the auction through the fifth respondent. The fifth respondent's counsel produced relevant materials in the form of register maintained by them. That apart after being granted the license, the villagers have also purchased fishlings and let them into the water. Probably, that is why the petitioner readily produced the Demand Draft for a sum of Rs.2 Lakhs. Of course in all fairness to the petitioner's counsel, he also indicated that the petitioner is willing to pay a sum of Rs.3 Lakhs. But then, when it comes to the private interest of the Writ petitioner and the public interest of the local villagers, the scales of the Court will have to tilt in favour of public interest. If the Writ petition is allowed, the petitioner alone would be benefited and the interest of the farmers will be sacrificed on the altar of private interest. Therefore, in view of the subsequent developments and also the fact that the villagers are the actual lessees, I declines to grant the relief sought by the Writ petitioner.



10. This Writ petition stands dismissed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

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Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District, Collectorate Campus, Kokkirakulam,
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Manur Taluk, Manur, Tirunelveli District.

+1. C.C. to M/S.S.P.Maharajan, Advocate SR.No. 61293

+1 cc to Special Government Pleader, SR.No. 60984

+1. C.C. to M/S.H.ARUMUGAM, Advocate SR.No. 61486

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KK/16.05.2019/4P/8C