



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.5405 of 2019

WEB COPY

S.Bharathan

... Petitioner

Vs

The Commissioner,
Melur Municipality,
Madurai District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to conduct public tender-cum-auction (2019-2020 to 2021-2022) for various items of its properties including to collect charge / fee for the 106 shops (except shop nos.1 to 34) located in the daily market and building complex in S.No.1, within a stipulated time.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondents : Mr.Chellapandian

Additional Advocate General

Assisted by

Mr.J.Gunaseelan Muthiah

Additional Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondent municipality.

2.The subject matter pertains to conferring the right to collect the user fee from the occupants of the 106 shops located in the daily market and building belonging to the respondent municipality. The respondent municipality issued tender notification dated 21.01.2019. The notification clearly stated that the tenders would be received up to 11 a.m., on 13.02.2019. It was further stated therein that auction would be conducted at around 11.30 a.m.

3.According to the petitioner he appeared in person to take part in the auction. But since he was the only bidder who was present, auction was not conducted. The petitioner has therefore, filed this writ petition for directing the respondent / municipality to conduct public tender cum auction in respect of the petition mentioned item.



4. When the matter was taken up for hearing, the learned Additional Advocate General produced the relevant files which indicates that even though no public auction was conducted on 13.02.2019, one Kuppuraja was found to be the highest tenderer. The Commissioner, Melur Municipality, passed a resolution for issuance of license in his favour. Notice dated 01.03.2019 was also issued to the said Kuppuraja calling upon him to pay the tender amount and comply with the other conditions of the tender notice.

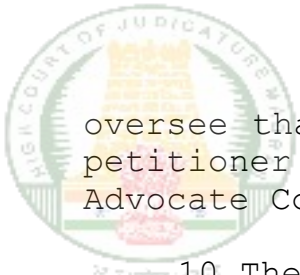
5. I can only express my utter displeasure over the conduct of the respondent. The notification clearly reads that the municipality will conduct tender cum auction for conferring the privilege in question. Even according to the respondent there are only two tenderers. One had offered a sum of Rs.62,20,000/ and the other one has offered a sum of Rs.70,03,000/-.

6. The municipality proposed to conduct auction on 13.02.2019 only to maximize its revenue. Since the writ petitioner alone was present on the said day, the respondent did not conduct any public auction on the said date. The petitioner had enclosed in the typed set of papers, the announcement made by the respondent commissioner in writing that no auction was conducted on the said date.

7. This Court went through the file and it is seen there from that no auction was conducted on the said date. If auction was not conducted for the reason that there was only a single participant, the respondent was bound to have adjourned the proceedings to another date for holding a fresh auction or else, the petitioner should have been informed that in the tender process, the highest offer that has been made was Rs.70,03,000/- and therefore it is open to the writ petitioner to quote a higher bid. The respondent / Commissioner, without doing so, has proposed to issue the license in favour of the highest tenderer.

8. The learned counsel for the writ petitioner states that during the previous year, the very same item fetched a sum of Rs.1,00,15,000/-. The petitioner is ready to make an offer of Rs.1,00,00,000/-(Rupees One Crore only) for getting the license for the petition mentioned item, for the current year namely 2019-2020. The petitioner states that he was ready to make the offer on the same day, but the respondent had chosen not to hold auction on the said date.

9. Therefore, the respondent is directed to hold a fresh auction on 22.03.2019 at 12.30 p.m., in the office of the respondent. Since this Court has already given a finding that the proceedings have not been conducted in a proper manner, this Court appoints an Advocate Commissioner namely Mr.S.Dinesh Rao, Enrollment No.2025/2016, Contact Nos.8300550014 and 9787251417, having office at No.544, K.K.Nagar West, opp. to Maharisi School, Madurai, as an observer to



oversee that the proceedings are conducted in a proper manner. The petitioner shall pay a sum of Rs.10,000/- as remuneration to the Advocate Commissioner.

10.The respondent shall also videograph the entire proceedings. In the said auction, the writ petitioner is entitled to participate. The other two tenderers namely Shri.Kuppuraja and Shri.Marimuthu will also be given advance information.

11.With this direction, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar(CS IV)

pnn

To

The Commissioner,
Melur Municipality,
Madurai District.

COPY TO:

MR.S.DINESH RAO,
EN.NO.2025 Of 2016,
No.544, K.K.Nagar West, opp. to Maharisi School, Madurai.
Cell no.8300550014.

+1CC to Mr.M.JEGADEESH PANDIAN, Advocate SR.No. 55084.

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