



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2019

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.A(MD)NO.597 OF 2019
and
C.M.P(MD)Nos.4906 and 4907 of 2019**

N.Yanose

:Appellant/Petitioner

.vs.

1. The State of Tamil Nadu,
represented by its Principal Secretary,
Department of Municipal Administration and Water Supply,
Fort St.George, Chennai -90.
2. The Director of Town Panchayat,
Office of the Director of Town Panchayat,
Kuralagam, Chennai - 600 108.
3. The District Collector,
Office of the District Collector,
Kanyakumari District, Kanyakumari.
4. The Assistant Director of Town Panchayats,
Office of the Assistant Director of Town Panchayats,
Nagercoil, Kanyakumari District.
5. The Executive Officer,
Manavalakurichi Selection Grade Town Panchayat,
Kanyakumari District.
6. The Executive Officer,
Killiyoor Town Panchayat,
Kanyakumari District.
7. The Executive Officer,
Karungal Town Panchayat,
Kanyakumari District.
8. The Executive Officer,
Pudukadai Town Panchayat,
Kanyakumari District.



9. The Executive Officer,
Kaliyakavilai Town Panchayat,
Kanyakumari District.

10. The Executive Officer,
Thingalnagar Selection Grade Town Panchayat,
Kanyakumari District.

11. The Executive Officer,
Mulakumoodu Town Panchayat,
Kanyakumari District.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.22529 of 2018, dated 24.01.2019.

Prayer in W.P(MD)No.22529 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.629/2018/A1, dated 03.10.2018 on the file of the fifth respondent and the impugned order in Na.Ka.No.500/2018 dated 03.10.2018 on the file of the sixth respondent and the impugned order in Na.Ka.No.729/2018/A1 dated 05.10.2018 on the file of the seventh respondent and the impugned Order in Na.Ka.No.532/2018 dated 05.10.2018 on the file of the eighth respondent and the impugned order in Na.Ka.No.586/2017/A1, dated 05.10.2018 on the file of the ninth respondent and the impugned order in Na.Ka.No.142/2017/A1, dated 05.10.2018 on the file of the tenth respondent and the impugned order in Na.Ka.No.630/2018/A1, dated 05.10.2018 on the file of the eleventh respondent and quash the same as illegal and consequently for a direction, directing the respondents to conduct E-Tender by way of wide publication in the Newspapers as enunciated in the Government Order in G.O.Ms.No.599 Finance Department dated 28.12.2007 and Rule 11 of the Tamil Nadu Transparency in Tender Rules, 2000 within the time frame stipulated by this Court.

For Appellant : Mr.T.Lajapathi Roy

For Respondents : Mr.VR.Shanmuganathan
Special Govt.Pleader

JUDGMENT

[Judgment of the Court was made by **K.RAVICHANDRABAABU, J.**]

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This Writ Appeal is directed against the order of the learned



Single Judge made in W.P(MD)No.22529 of 2018, dated 24.01.2019, in dismissing the Writ Petition with cost of Rs.10,000/- on the Petitioner.

2.The appellant as Writ Petitioner, had challenged the tender notification referred to in the Writ Petition with consequential prayer for a direction to the respondents to conduct the e-tender with wide publication in newspapers and also by following the rules in Tamil Nadu Transparency in Tender Rules, 2000.

3.The main grievance of the Writ Petitioner is that wide publication in newspapers has not been made by the authorities while issuing tender notification and therefore, it violates the relevant rules and the procedures contemplated under the Tamil Nadu Transparency in Tender Rules, 2000.

4.The Writ Court found that the above contention of the petitioner is not correct and that the publication of the tender notification having been published in New Indian Express on the very same day, the Petitioner is not entitled to contend otherwise. Thus the Writ Court dismissed the Writ Petition and imposed the cost on the Petitioner, as stated supra.

5.This Court, while entertaining the Writ Appeal, directed the respondents not to recover the cost imposed on the Petitioner by the Writ Court till the disposal of the Writ Appeal. Thereafter, the matter is taken up for further hearing today. The learned counsel for the appellant submitted that in pursuant to the dismissal of the Writ Petition by the Writ Court, the subject-matter work has been awarded to a third party, who in-turn has also completed the work. Therefore, he submitted that the issue raised in this Writ Appeal may be left open to be adjudicated upon in appropriate proceedings, however, by deleting the cost imposed on the Petitioner.

6.The learned Special Government Pleader appearing for the respondents is not disputing the fact that the subject matter tender notification has reached its finality by awarding the tender to a third party, who in turn has also completed the work.

7.Considering the fact that the challenge made in the tender notification has now become academic and in view of the fact that pursuant to the dismissal of the Writ Petition, the work has been already awarded to a third party, who in turn also has completed the said work, this Court is not inclined to go into the rival contentions made by the respective parties to decide the issue raised in this Writ Appeal, however, by leaving those issues open to be raised and decided in appropriate proceedings.

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8.Since this Court is not inclined to go into the merits of the points raised in this Writ Appeal and has chosen to dispose



the same only by taking note of the fact that the work has been awarded to a third party, who in-turn has completed the work, We are inclined to delete the cost portion alone awarded by the Writ Court on the Petitioner.

9. Accordingly, this Writ Appeal is allowed in part, only by deleting the cost portion alone awarded by the Writ Court on the Writ petitioner. In all other aspects, the order of the Writ Court stands. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS)

To

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Kanyakumari District.

+1 CC to Special Government Pleader (SR-74735[F] dated 11/07/2019)

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-74988[F] dated 12/07/2019)

JUDGMENT MADE IN

**W.A (MD) NO.597 OF 2019
and
C.M.P (MD) Nos.4906 and
4907 of 2019
10.07.2019**

vsn

AE/ (26.07.2019) 5P 14C