



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
22.10.2019	01.11.2019

CORAM:
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.17861 of 2019
and
W.M.P. (MD) Nos.14331 & 14334 of 2019

S.Selvaraj ... Petitioner
-vs-

1.The Secretary to the Government
Department of Municipal Administration
and Water Supply
Fort.St.George
Chennai-600 009

2.The Commissioner of Municipal
Administration and Water Supply
Office of the Commissioner of
Municipal Administration & Water Supply
Ezhilagam, Chepauk
Chennai-600 005

3.The Regional Director of Municipalities
Thanjavur Region
Near Kodimarathumoolai
Thanjavur District

4.The District Collector
Office of the District Collector
Thanjavur

5.The Commissioner
Kumbakonam Municipality
Kumbakonam, Thanjavur District

6.V.Krishnasamy ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned resolution No.329 dated 24.11.2017 which is published in the Kumbakonam Municipality



Website and subsequent awarding of tender in favour of the sixth respondent and to quash the same, consequently, direct the respondents to pay the amount to the sixth respondent as per PWD guideline values the fifth respondent Municipality to take administration by stopping the work awarded to the sixth respondent for the construction of Marriage Hall and Lodge in Murthy Auditorium and the Lodge nearby the Old Bus Stand by following the well established procedures prescribed under the Tamilnadu Transparency in Tender (Public Private Partnership Procurement) Rules 2012 by considering petitioner representation dated 25.06.2019.

For Petitioner : Mr.C.Gangai Amaran
for M/s.G.Thalaimutharasu

For Respondents : Mr.A.K.Baskarapandian
Special Government Pleader for R1 to R4
Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.M.Rajarajan for R5
Mr.G.Prabhu Rajadurai
for M/s.AL.Ganthimathi for R6

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

This writ petition designed as a public interest litigation seeks for issuance of a writ of certiorarified mandamus to quash the resolution passed by Kumbakonam Municipality in resolution No.329, dated 24.11.2017, awarding a tender in favour of the sixth respondent and consequentially, to direct the official respondents to insist upon the sixth respondent to pay as per PWD rates in respect of the Marriage Hall and Lodge in Murthy Auditorium and the Lodge nearby the Old Bus Stand, by following the procedures prescribed under the Tamil Nadu Transparency in Tender (Public Private Partnership Procurement) Rules 2012 (hereinafter, referred to as "the Rules"), by considering the petitioner's representation, dated 25.06.2019.

2. The petitioner would state that the award of contract in favour of the sixth respondent under the Public - Private Partnership Scheme has caused great loss to the respondent Municipality as the contract had been awarded in favour of the sixth respondent for a very paltry sum of Rs.6,200/- per day when the value of the property, in which the Marriage Hall has been constructed, is worth several Crores and it is in the heart of Kumbakonam Town. Therefore, the sixth respondent cannot be permitted to enjoy the benefits of the Marriage Hall by paying such



a paltry amount, but should direct him to pay as per P.W.D. Rates.

3. The above submissions were elaborately reiterated by Mr.G.Thalaimutharasu, learned counsel appearing for the petitioner.

4. Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.M.Rajarajan, learned counsel appearing for the respondent Municipality, would submit that proper procedures were followed in the award of tender in favour of the sixth respondent and the sixth respondent has invested Rs.5,00,00,000/- and he has to pay Rs.6,200/- per day as well as the amount of rent for three months in advance. Further, by referring to the counter affidavit, it is submitted that the allegation that the respondent Municipality is collecting lesser lease rent is absolutely false.

5. Mr.G.Prabhu Rajadurai, learned counsel appearing for the sixth respondent, submitted that the sixth respondent has invested Rs.5,00,00,000/- for putting up construction and apart from that the sixth respondent has to pay Rs.6,200/- per day and if interest is calculated at 12% on Rs.5,00,00,000/-, it would be more than Rs.5,00,000/- per month and the amount to be paid by the sixth respondent to the respondent Municipality is Rs.22,50,000/- per year and the projected income of the sixth respondent is about Rs.60,00,000/- and there is no windfall profit and the correct procedures have been followed.

6. After elaborately hearing the learned counsel appearing for the parties and carefully perusing the materials placed on record, we find that there is no challenge made by the petitioner as regards the procedure adopted by the Tender Scrutiny Committee. Though certain averments have been made, they are not sufficient to hold that there is an error in the tender process. The sum and substance of the objection is that the revenue earned by the respondent Municipality at Rs.6,200/- per day is ridiculously low. Considering the fact that the sixth respondent has invested a sum of Rs.5,00,00,000/-, put up a construction with a condition to transfer the property as it is to the respondent Municipality after ten years, in addition the sixth respondent has to pay Rs.6,200/- per day as rent irrespective of the fact that whether the Marriage Hall is occupied or not, thus the respondent Municipality is entitled to receive a sum of Rs.22,50,000/- per year as per the terms and conditions of the contract, we are of the view that the petitioner has not been able to point out any arbitrariness in the decision making process and considering the investment of Rs.5,00,00,000/- made by the sixth respondent, we are of the view that the decision taken by the respondent Municipality cannot be held to be either illegal or arbitrary. Therefore, we find no reason to grant the relief sought for in the writ petition.

7. In the result, the writ petition fails and stands



dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P AND A)

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Sub Assistant Registrar(CS)

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To:

- 1.The Secretary to the Government,
Department of Municipal Administration
and Water Supply,
Fort.St.George,
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 - 2.The Commissioner of Municipal
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Office of the Commissioner of
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 - 3.The Regional Director of Municipalities,
Thanjavur Region,
Near Kodimarathumoolai,
Thanjavur District.
 - 4.The District Collector,
Office of the District Collector,
Thanjavur.
- +1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-95709[F] dated 04/11/2019)
- +1 CC to M/s.M.RAJARAJAN, Advocate (SR-95842[F] dated 04/11/2019)
- +1 CC to M/s.GP (SR-95978[F] dated 04/11/2019)
- +1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-95998[F] dated 05/11/2019)

W.P.(MD) No.17861 of 2019
and

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KK/SAR/12.11.2019/4P-9C/

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