



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. (MD) No. 8546 of 2018

DR.R.S.Lal Mohan

...Petitioner

Vs.

1.The Principal Secretary to Government,
Tourism, Culture and Religious
Endowments Department,
Fort St.George, Chennai-600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Nungampakkam High Road,
Chennai-34.

3.The District Collector,
Kanyakumari District,
At Nagercoil.

4.The Joint Commissioner / Executive Officer,
Kanyakumari District Temples,
Suchindrum,
Kanyakumari District.

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned prequalification and re-tender notification No.574/2003/G1, dated 16.03.2018 issued by the fourth respondent and quash the same and consequently direct the respondents to call for the fresh tender in consultation with the Archeological Department or the Conservation Architect within a time frame fixed by this Court.

For Petitioner : Mr.R.J.Karthick

For R1 to R3 : Mr.A.K.Baskara Pandian
Special Government Pleader

For R4 : Mr.K.Sathiyasingh



ORDER

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

Heard Mr.R.J.Karthick, learned counsel for the petitioner, Mr.A.K.Baskara Pandian, learned Special Government Pleader for the respondents 1 to 3 and Mr.K.Sathiyasingh, learned counsel for the fourth respondent.

2. By way of this writ petition styled as Public Interest Litigation, the petitioner, Dr.R.S.Lal Mohan, seeks issuance of certiorarified mandamus to quash the pre-qualification and re-tender notification, dated 16.03.2018 issued by the fourth respondent for the renovation and maintenance of the Eraniel Palace.

3. The sum and substance of the objections raised by the petitioner is that the Eraniel palace, which has an historical background, can be restored and conserved only by Archeological Department or a Conservation Architects. Further, in the impugned notification the pre-qualification condition excludes Conservation Architects and supports politically influential local contractors.

4. It is further submitted that the respondents have estimated the cost of work for the restoration and conservation of the Eraniel Palace, during the year 2013-14, which would be thoroughly inadequate to undertake the work after three years given the escalation of costs. Further, it is submitted that the restoration and conservation of hereditary construction cannot be done as per the norms adopted by the Public Works Department. The petitioner would further submit that the Conservation Architect had given an opinion in the year 2014 stating that to do the conservation work of the Palace a sum of Rs.3.8 crores was required. Therefore, the present sanction for the entire restoration and maintenance is ridiculously inadequate. Further more, the petitioner points out that the pre-qualification conditions have not been properly spelt out and ultimately a single tenderer is to be awarded the tender to undertake the work that too by adopting the Public Works Department norms.

5. The learned counsel had taken us through all the relevant documents in the typed set of papers including the photographs to impress upon us about the condition of the Palace as on date and what would be the amount required to restore and conserve and maintain the Palace. In order to ascertain as to whether the proper procedure was adopted by the respondents, we directed the learned counsel appearing for the respondent to produce the entire file, as the major complaint was that the archeological aspect of the palace has not been given due regard and the Conservation Architect does not form part of the team, which has been entrusted renovation work and the building cannot be dealt with as one other building of the



Public Works Department.

6. To satisfy ourselves, we have gone through the files including pre-qualification conditions, not only for the present tender but as well as the earlier tenders.

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7. We find that one Mr. Jayakumar has been entrusted with the work, who is a registered Class-I Public Works Department Contractor. Though the said person had earlier participated in the tender, he did not fulfil the pre-qualification, on account of non-production of relevant certificates. The said contractor Mr. Jayakumar, has coordinated with certain experts, who have done various projects in the State including the heritage building of the Madras High Court and the heritage building of the Head Quarters of Public Works Department in Chennai and considering these aspects, the work has been awarded to Mr. Jayakumar in the subsequent tender.

8. Further more, we take note of the fact that the Public Works Department has now constituted a separate Wing for conservation of heritage buildings throughout the State. In fact, the said Wing of the Public Works Department works in close coordination with the High Court for restoring the heritage buildings owned by the Judicial Department throughout the State of Tamil Nadu. Therefore, we are of the considered view that the work can be entrusted to the contractor now appointed by the Government.

9. However, we need to point out that the amount, which has now been allotted is inadequate considering the condition of the Eraniel Palace (as seen from the photographs produced by the respondents). Therefore, after commencement of the work by the contractor, revised cost estimation shall be sent to the Government to meet the additional expenditure and if such proposal is sent, the Government shall consider the same taking note of the importance of the project. The Executive Engineer, Public Works Department of the Heritage and conservation Wing shall inspect the renovation process at periodical intervals. The entire renovation process should be thoroughly documented by videography and photographs etc., and maintained.

10. In the light of the above reasons assigned, we find no reason to quash the notification. Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



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To

1. The Principal Secretary to Government,
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Endowments Department,
Fort St. George, Chennai-600 009.
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Public Works Department,
Heritage and Conservation Wing,
Chennai.
5. The Joint Commissioner / Executive Officer,
Kanyakumari District Temples,
Suchindrum,
Kanyakumari District.

+1CC TO MR.K.SATHIYA SINGH, Advocate Sr. No. 92284
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 92112
+1CC TO MR.R.J.KARTHICK, Advocate Sr. No. 92088

ORDER MADE IN
W.P. (MD) No. 8546 of 2018
15.10.2019

KG (CO)
TR (18.11.2019) 4P 9C