



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **31.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

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W.P. (MD)No.22479 of 2018

and

W.M.P. (MD)Nos.20336, 20337 of 2018 and 18352 of 2019

S.M.Nizam : Petitioner
Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Commissioner,
Srivilliputhur Municipality,
Virudhunagar District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned tender notification of the second respondent made in Na.Ka.No.3192/2018/E1 Sl.No.3, dated 11.09.2018 and quash the same as illegal.

For Petitioner : Mr.M.Jegadeesh Pandian
For Respondent No.1 : Mr.J.Gunaseelan Muthiah,
Additional Government Pleader
For Respondent No.2 : Mr.P.Srinivas

ORDER

The present Writ Petition has been filed challenging the tender notification of the second respondent made in Na.Ka.No.3192/2018/E1 Sl.No.3, dated 11.09.2018.

2. The case of the petitioner, in brief, is as follows:

2.1. The petitioner is a resident of Ashok Nagar, Srivilliputhur, Virudhunagar District and he is also the President of Ashok Nagar Residential Welfare Association. The said Ashok Nagar has formed a residential layout comprising 500 house sites and also got approval from the second respondent as well as from the other competent authorities. The Ashok Nagar has also earmarked and allocated an extent of about 2270.54 square metre of open land in Survey Ward No.2, Block No.26, as children park.

2.2. While that being so, the second respondent proposed to install an Integrated Municipal Solid Waste Facility in the precinct



of the aforesaid Survey Ward number, pursuant to which, the second respondent has also issued the impugned notification dated 11.09.2018, inviting tender for construction of Micro Compost Plant in the Children Park. On coming to know about the same, the petitioner appeared in person on 01.10.2018 and requested the authorities not to construct the Micro Compost Plant in the Children Park, but, his efforts are ended in vain. Therefore, questioning the tender notification, the petitioner is before this Court.

3. The second respondent filed a counter-affidavit in the form of vacate stay petition, denying all the averments made in the affidavit filed in support of the Writ Petition.

4. Heard the submissions made on either side.

5. Before going into the facts of the case, decision taken by the Hon'ble Division Bench of this Court in similar issue in **W.P.No.32938 of 2017, dated 14.03.2018 [T.G.Ruthramani vs. The Member Secretary]; M.G.M.N.N.M.Sangam v. Commissioner, Municipal Authority reported in 2019(2) MLJ 114; W.P.(MD)Nos.19552 and 20471 of 2018, dated 13.03.2019 [P.Radhakrishnan vs. the District Collector, Theni District]; W.P.No.29791 of 2018, dated 29.08.2019 [K.Karunaimoorthy vs. The District Collector, Coimbatore District]; W.P.(MD)No.19334 of 2019, dated 06.09.2019 [Anthony Raj vs. The District Collector, Virudhunagar District]** and also the decision of the Hon'ble Supreme Court in **Petition for Special Leave to Appeal (C) No.12543 of 2019, dated 08.07.2019 [M.Krishnakumar vs. District Collector and ors.]**, has to be considered.

6. In the afore-mentioned judgments, while dismissing the Writ Petitions, the Division Bench of this Court has uniformly held that since the construction of micro compost centre is in larger public interest, there is no question of injuncting the local body. It would be of considerable advantage to the residents. In case the garbage is not treated and proper arrangements are not made for its disposal, it would result in health hazard to the local people. It is the duty of the Municipal authorities to ensure that there is no nuisance created to the residents. The authorities shall ensure that the Municipal Solid Waste Management Plant/Transfer Station is to be cleaned twice a day and is to be done very regularly to avoid mosquitoes breeding in the portion of park. It is the duty of the authorities to ensure the park to maintain properly. The Municipality shall ensure that the remaining area of the park is developed into a well maintained park. It is also directed that footpath and green belts and play equipments should be installed in the park. If the park is not maintained, it will be taken as contempt of the orders of this Court.

7. In view of the same, this Court is of the view that the issue is no longer res integra and the present Writ Petition is



liable to be dismissed and accordingly, dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS)

To

The District Collector,
Virudhunagar District,
Virudhunagar.

Order made in
W.P. (MD) No.22479 of 2018
Dated: 31.10.2019

sml

MK (08.11.2019) 3P 2C