

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :06.03.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.5834, 5954, 5958 and 5960 of 2020
and WMP.Nos.6977, 6979, 6986, 6989, 6992 and 6994 of 2020

W.P.No.5834 of 2020

R.K.R. Transport,
Represented by its Proprietor,
Mr.S.N. Rajkumar,
New No.19/1 (Old No.37/1)
Vaigai Colony,
First Cross Street,
12th Avenue Ashok Nagar,
Chennai - 600 083.Petitioner

-vs-

1. The Tamil Nadu Cooperative Milk
Producers Federation Limited
Represented by its Managing Director,
Aavin Illam,
3 -A, Chamiers Road,
Nandanam, Chennai - 600 035.
2. Dr. Vallalar I.A.S.,
Managing Director,
The Tamil Nadu Cooperative Milk
Producers Federation Limited,
Aavin Illam,
3 -A, Chamiers Road,
Nandanam, Chennai - 600 035.
3. K. Manivannan,
Joint Managing Director,
The Tamil Nadu Cooperative Milk
Producers Federation Limited,
Aavin Illam,
3-A, Chamiers Road,
Nandanam, Chennai - 600 035.Respondents

Prayer : Petition under Article 226 of the Constitution of India praying for issuance of Writ of mandamus, to direct the respondents to conclude the tender process in tender No.2273/T4/TPT/2019 commenced vide notification dated 27.08.2019.

W.P.No.5954 of 2020

M/s. South India Road Milk Transport,
Represented by its Proprietor, N. Vaidhyananathan,
37/15, NutechVishram Apartment,
E Flat, 11th Avenue, Ashok Nagar,
Chennai - 600 083.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by the Secretary to the Government,
Department of Animal Husbandry
Secretariat, Fort St. George, Chennai - 600 009.
2. Mr. C. Gopal I.A.S.,
Secretary to Government,
Department of Animal Husbandry
Secretariat, Fort St. George, Chennai - 600 009.
3. The Managing Director,
The Tamil Nadu Cooperative Milk
Producers Federation Ltd. Aavin Illam,
3-A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.
4. Dr. Vallalar I.A.S.,
Managing Director,
The Tamil Nadu Cooperative Milk
Producers Federation Limited,
Aavin Illam,
3 -A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.
5. The Joint Managing Director,
The Tamil Nadu Cooperative Milk,
Producers Federation Ltd. Aavin Illam,
3-A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.

.. Respondents

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of mandamus, directing the 3rd respondent to grant the work order to the petitioner, L1 holder for 15KL vehicles and 8.5 KL vehicles submitted in the tender in

Notification No.2273/T4/TPT/2019 dated 27.08.2019.

W.P.No.5958 of 2020

M/s. Bala Vignesh Enterprises,
Represented by its Proprietor, B.Balaji,
No.F3, Yoga Homes, Plot No.26,
Vembuliamman Koil Street,
West K.K. Nagar, Chennai - 600 078.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by the Secretary to the Government,
Department of Animal Husbandry
Secretariat, Fort St. George, Chennai - 600 009.
 2. Mr. C. Gopal I.A.S.,
Secretary to Government,
Department of Animal Husbandry
Secretariat, Fort St. George, Chennai - 600 009.
 3. The Managing Director,
The Tamil Nadu Cooperative Milk
Producers Federation Ltd. Aavin Illam,
3-A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.
 4. Dr. Vallalar I.A.S.,
Managing Director,
The Tamil Nadu Cooperative Milk
Producers Federation Limited,
Aavin Illam,
3 -A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.
 5. The Joint Managing Director,
The Tamil Nadu Cooperative Milk,
Producers Federation Ltd. Aavin Illam,
3-A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.
- ... Respondents

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of mandamus, directing the 3rd respondent to grant the work order to the petitioner, L1 holder for 15KL vehicles and 8.5 KL vehicles submitted in the tender in Notification No.2273/T4/TPT/2019 dated 27.08.2019.

W.P.No.5960 of 2020

M/s. Deepika Transports,
Represented by its Proprietor, V.Revathy
37/15, Nutech Vishram Apartment,
E Flat, 11th Avenue, Ashok Nagar,
Chennai - 600 083.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by the Secretary to the Government,
Department of Animal Husbandry
Secretariat, Fort St. George, Chennai - 600 009.
 2. Mr. C. Gopal I.A.S.,
Secretary to Government,
Department of Animal Husbandry
Secretariat, Fort St. George, Chennai - 600 009.
 3. The Managing Director,
The Tamil Nadu Cooperative Milk
Producers Federation Ltd. Aavin Illam,
3-A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.
 4. Dr.M.Vallalar I.A.S.,
The Tamil Nadu Cooperative Milk
Producers Federation Limited,
Aavin Illam,
3 -A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.
 5. The Joint Managing Director,
The Tamil Nadu Cooperative Milk,
Producers Federation Ltd. Aavin Illam,
3-A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.
- .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying for issuance of Writ of mandamus, directing the 3rd respondent to grant the work order to the petitioner, L1 holder for 15KL vehicles and 8.5 KL vehicles submitted in the tender in Notification No.2273/T4/TPT/2019 dated 27.8.2019.

For Petitioner : Mr. Govind Chandrasekhar
[in W.P.No.5834/2020]
For Petitioners : Mr.S.Muthukumar
[in W.P.Nos.5954, 5958
& 5960 of 2020]
For Respondents : Mr. L.P. Shanmugasundaram
[in all W.Ps.]

COMMON ORDER

All these writ petitions have been filed by the Transport Contractors, who owned or possessed the specially designed vehicle for transporting the milk. The respondents federation called for tenders by notification dated 27.08.2019 to run 303 numbers of road milk tankers on hire for transportation of milk for a period of three years i.e., 2019 -2022. The petitioners are participants in the tender and according to the petitioners their bids are computed and the same should be considered. Since there was a stalemate in the matter, the petitioners have approached this Court and seek for issuance of a writ of mandamus to direct the respondents to conclude the tender process, which were commenced by the notification dated 27.08.2019.

2. Mr.L.P. Shanmugasundaram, learned Special Government Pleader accepts notice on behalf of the respondents and submitted that an identical prayer has been made in W.P.Nos.5076, 5078 and 5081 of 2020, in which, the Managing Director of the Tamil Nadu Cooperative Milk Producers' Federation Limited, Transport Unit, has filed a counter affidavit stating about the various stages and the tender has passed through and has submitted that as per the Tamil Nadu Transparency in Tender Rules, 2000, the period of evaluation of tenders and award of contract ends on 07.04.2020 and on 04.02.2010, the Board Level Committee (BLTC) met and they evaluated the tenders and the capacity of the road milk tankers etc., and it was observed that the negotiated L1 rate is very exorbitant when compared to the existing rate and after detailed discussion resolved to cancel the tender and call fresh tenders.

3. In the light of the decision taken by the respondents federation, this Court cannot issue a writ of mandamus and not compel them to conclude the tender.

4. The argument of the learned counsel for the petitioner is that the petitioners are existing operators and they have invested huge funds in promoting the specially designed vehicle to transport milk with a controlled temperature.

5. Thus, in spite of the fact that in few of the writ petitioner's cases, license has been extended up to end of March, 2020 and considering the scope of the writ petitions, which are before this Court, this Court will not justify in making any observation with regard to availing the service of the petitioners till the end of March, 2020 and it is a decision to be taken by the respondents to engage the service of the petitioners. That apart, unless and until a tender is finalised and work order is issued, no right accrues in favour of the bidder.

6. In the light of the decision taken by the respondents to cancel the tender, the writ petitions stand disposed of by leaving it open to the respondents to call for fresh tender in accordance with law. The respondents are directed to upload the decision and also communicate to the petitioner about the decision for cancellation of tender stated to be part of the conditions of tender. No costs. Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu Cooperative Milk
Producers Federation Limited
Aavin Illam,
3 -A, Chamiers Road,
Nandanam, Chennai - 600 035.

2. The Secretary to the Government,
Department of Animal Husbandry
Secretariat, Fort St. George, Chennai - 600 009.

3. The Joint Managing Director,
The Tamil Nadu Cooperative Milk,
Producers Federation Ltd. Aavin Illam,
3-A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.

+1 cc to Govind Chandrasekhar Advocate sr20182

+1 cc to Mr.S.Muthukumar Advocate sr20713

+4 ccs to L.P.Shanmugasundaram Advocate sr20705 to 20708

+1 cc to Government Pleader sr 21148

W.P.No.5834, 5954, 5958 and 5960 of 2020
and WMP.Nos.6977, 6979, 6992 and 6994 of 2020

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