

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 17.03.2020  
CORAM  
THE HONOURABLE MR.JUSTICE ANAND VENKATESH  
W.P. No.5968 of 2020  
and  
WMP No.7006 of 2020

K.S.Elangovan

...Petitioner

Vs

1. The District Collector,  
Tiruppur District,  
Tiruppur.

2. The Block Development Officer,  
Avinashi Panchayat Union,  
Avinashi,  
Tiruppur District.

3. The Karuvalur Panchayat,  
Rep. by its Special Officer,  
Karuvalur,  
Avinashi Taluk,  
Tiruppur District.

4. The Assistant Divisional Engineer,  
Highways Department,  
Avinashi Taluk,  
Tiruppur District.

5. The Deputy Director,  
Health Department,  
147, Puluvaipatti Division,  
Neruperichal Salai,  
Tiruppur - 2.

सत्यमेव जयते

.... Respondents

Writ Petition filed to issue Writ of Certiorarified Mandamus calling for the records relating to the Auction Notice of the 3rd respondent dated 28.02.2020, published in The Dinamani Daily dated 29.02.2020 and quash the same only in so far as it relates to the petitioner to run the Mutton, Chicken and Fish Stalls and consequently, direct the respondents to provide separate shops of the Panchayat to run the Mutton, Chicken and Fish Stalls before conducting the Public Auction for grant of Licence to do the business in mutton, chicken and fish Stalls.

For petitioner : Mr.K.Selvaraj  
counsel for petitioner

For respondents : Mr. P.Senthilvel  
Additional Government Pleader  
for R1, R4 and R5.  
Mr.S.N.Parthasarathi,  
Government Advocate for R2  
Mr.T.Balaji for R3

#### ORDER

This writ petition has been filed challenging the auction notice issued by the third respondent on 28.02.2020 and for a consequential direction to the respondents to provide separate Stalls to run the Mutton, Chicken and Fish Stalls before the auction is conducted.

2. The case of the petitioner is that the petitioner and others made a specific request to the respondents to provide them a specific place to run their Mutton, Chicken and Fish Stalls. Earlier in the year 2018, the third respondent issued an auction notice for grant of licence and the date of auction was fixed on 02.03.2018. However, the auction was not conducted due to the objections received from the Highways Department and the Health Department. The petitioner had also challenged the second auction notice that was issued in WP No.5467 of 2018 and an order of status quo was granted by this Court. Thereafter, the learned counsel for the respondents submitted before this Court that the auction has been cancelled and recording the same, the writ petition was also closed.

3. The further case of the petitioner is that the third respondent has again now issued an auction notice on 28.02.2020. The grievance of the petitioner is that this auction is being conducted without providing any Stall or shop and therefore, the situation that prevailed earlier, continues even now and therefore, this Court should direct that the auction should not proceed till the third respondent specifically identifies the Stall or shop, where the licence is going to be granted to run the business.

4. The learned counsel for the petitioner submitted that the petitioner is already running a fish Stall in a private property and the petitioner already made a representation to the respondents to grant licence. Without granting licence, respondents have proceeded to issue an auction notice.

5. The learned counsel submitted that the petitioner is willing to participate in the auction provided that the respondents are able to give the particulars of the Stall or shop for which, a licence is going to be granted. Alternatively, the learned counsel submitted that the respondents can also consider to grant licence to the petitioner for continuing with his Fish Stall.

6. The third respondent has filed a counter affidavit in this case. It is stated by the third respondent that the writ petitioner is running a Fish Stall in the main road at Karuvalur Panchayat without any licence for the past two years. It is further stated that the same was objected by the Highways Department. The third respondent has taken a further stand that the Panchayat wanted to augment income and therefore has decided to auction the Stalls for running the Fish and Chicken Stalls at Indira Nagar. It will be relevant to extract paragraph 11 of the counter affidavit

11. It is submitted that the 3rd respondent has now decided to locate the Chicken and Fish Stalls in S.No.119/3A, Indhira Nagar, Karuvalur Panchayat, the property belongs to the third respondent. If the Hon'ble Court permits Chicken and Fish Stalls be auctioned in the above place the 3rd respondent is ready to give the electricity service connection, water supply and sewage facilities to the respective successful bidders.

7. The learned Government Advocate appearing on behalf of the first and second respondents submitted that the petitioner has a vested interest in the present writ petition, since he does not want any competition for the business which he is already running in the very same place by putting up a Fish Stall. The learned counsel submitted that the petitioner can also participate in the auction and if he is able to quote the highest bid, the petitioner will be allotted a shop with a licence by the third respondent. Without participating in the auction, the petitioner does not have any right to prevent the third respondent from going ahead with the auction.

8. The learned counsel appearing on behalf of the third respondent submitted that the petitioner is presently running a Fish Stall at Indira Nagar, without any licence. The learned counsel further submitted that at para 11 of the counter affidavit, the third respondent has taken a very specific stand as to where the Chicken and Fish Stalls are going to be located. According to the third respondent, this property belongs to the third respondent. The learned counsel therefore submitted that the petitioner can also participate in the auction and if he makes the highest bid, he will be permitted to

locate the shop in the place mentioned at Para 11 of the counter affidavit. The learned counsel further submitted that proper electricity service connection, water supply and sewage facilities will also be provided to the successful bidders.

9. This Court has carefully considered the submissions made on either side and materials available on record.

10. The apprehension raised by the petitioner has been sufficiently answered by the third respondent. The petitioner is presently running a Fish Stall at Indira Nagar. According to the petitioner, this Stall is being run in a private property. The grievance of the petitioner is that there is no Stall located by the third respondent and without doing the same, steps are being taken to auction Mutton, Chicken and Fish Stalls. Therefore, the petitioner is seeking for a direction to the respondents to give him a licence for running the Fish Stall in the private property. On the alternative the petitioner also is willing to participate in the auction provided the third respondent allots a specific Stall for running the business.

11. The third respondent has specifically taken a stand at para No.11 of the counter as to where the shop is going to be located. The same is recorded by this Court. It is open to the petitioner to participate in the auction along with others and if he is a successful bidder, the petitioner will be allotted a shop with all the facilities, as undertaken in para 11 of the counter affidavit.

12. If the petitioner is not willing to participate in the auction, it is left open to him to make an independent representation with the third respondent seeking for licence to run the Fish Stall in the private property. On such representation, it is always open to the third respondent to consider the same on its own merits and in accordance with law and pass appropriate orders.

13. In the considered view of this Court, the petitioner cannot be allowed to stall the auction that is being conducted by the third respondent. The petitioner has his options open and therefore, he has to rather exercise his option than trying to stall the auction conducted by the third respondent.

14. This writ petition is disposed of, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

To

1. The District Collector,  
Tiruppur District,  
Tiruppur.

2. The Block Development Officer,  
Avinashi Panchayat Union,  
Avinashi,  
Tiruppur District.

3. The Special Officer,  
Karuvalur Panchayat,  
Karuvalur,  
Avinashi Taluk,  
Tiruppur District.

4. The Assistant Divisional Engineer,  
Highways Department,  
Avinashi Taluk,  
Tiruppur District.

+lcc to Mr.Selvaraj, Advocate, SR.No.23627.

+lcc to Mr.Dinesh Kumar, Advocate, SR.No.23776.

+lcc to Government Pleader, SR.No.24086.

सत्यमेव जयते

W.P. No.5968 of 2020

MG (CO)

CSR: 19/03/2020

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