

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.10270 of 2020

and

WMP Nos.12483, 12486 and 12565 of 2020

N.Ramu
S/o.D.Madhu
No.52, Kabilar Street
Shevapet, Salem-636 002.

...Petitioner

Vs.

1.The Commissioner of Corporation,
Salem City Corporation,
Salem 636 001.

2.The Assistant Commissioner,
Ammamet, Zonal Office,
Ammamet, Salem 636 003.

3. Arul Sanmugasundaram
No.118/1, Thiyagi Arunachalam Street
Ammamet, Salem - 636 003.

4. N.Subash
No.58, Bodinaickenpatti
Suramangalam Post
Salem - 636 005.

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified mandamus to call for the records relating to the proceedings in connection with Re-tender Inviting Notice in Na.Ka.No.L8/8888/2018 published in daily Tamil News Paper "Daily Thanthi" dated 26.07.2020 announced by the first respondent herein and quash the same.

For Petitioner : Mr.N.Vijaya Basker

For Respondents : Mr.S.Sathish
standing counsel
for R1 & R2

O R D E R

This matter is taken up for hearing through Video Conferencing mode.

2. This writ petition is filed challenging the Re-tender notification dated 26.07.2020 issued by the first respondent Corporation.

3. Mr.S.Sathish, learned standing counsel takes notice for the respondents 1 and 2. Since this Court is not inclined to entertain the writ petition, notice to the respondents 3 and 4 is dispensed with.

4. The case of the petitioner is that the first respondent issued tender notification dated 08.07.2020, for collecting daily entry fees for V.O.C daily market and that the petitioner participated in the tender and became successful. It is stated that the petitioner's tender was found to be the highest bid on 24.07.2020 and however, without issuing the work order to the petitioner, the first respondent issued the present impugned Re-tender notification on 26.07.2020 by cancelling the earlier tender dated 08.07.2020.

5. The grievance of the petitioner is that the Re-tender is issued only to favour the private respondents and therefore, the impugned proceedings cannot be sustained.

6. Upon hearing the learned counsel for the petitioner and the learned standing counsel for the respondent Corporation and perusing the terms and conditions of the tender, it is evident that clause 22 therein specifically contemplates that if any person is willing to quote 5% more than the highest bid by depositing 50% of the bid amount within three days from the date of the previous tender and if any such offer is made, the first respondent will take a decision to call for re-tender. In the impugned notification, it is stated that the third respondent herein has made an application on 25.07.2020, offering 5% more than the highest bid amount and also deposited 50% of the bid amount on 26.07.2020. Citing this, the first respondent has chosen to issue re-tender notification, impugned in this writ petition. Therefore, I find that the petitioner herein, having accepted the terms and conditions of the tender, more particularly clause 22 therein is not entitled to question the re-tender notification, impugned in this writ petition.

7. Learned counsel for the petitioner apprehends that since the petitioner has approached this Court, he will not be permitted to take part in the re-tender.

8. I do not think that the petitioner can be prevented from participating in re-tender, merely because, he has approached this Court.

9. Learned counsel for the respondent Corporation also submitted that the petitioner will be permitted to participate in the re-tender. He further submitted that in fact, the petitioner has given a letter to the Commissioner to withdraw the present writ petition and however, it is not known as to how the present writ petition is being pursued.

10. In any event, as this Court is not inclined to entertain this writ petition and also found that the petitioner is entitled to participate in re-tender, this Writ Petition is disposed of accordingly, by permitting the petitioner to participate in the re-tender as well. If any deposit is made by the petitioner in the earlier tender, the same shall be taken into account as the deposit for the present re-tender process as well. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vri/mk

To

1.The Commissioner of Corporation,
Salem City Corporation,
Salem 636 001.

2.The Assistant Commissioner,
Ammamet, Zonal Office,
Ammamet, Salem 636 003.

W.P.No.10270 of 2020

NSA(CO)
GN(25/09/2020)