

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P Nos.10801 & 10906 of 2020
and W.M.P.Nos.13117, 13119, 13246 & 13250 of 2020

M.Mohamed Ismail
S/o.S.Mohammed Hanifa,
270A, Gandhi Nagar,
Attur Town, Salem District
Tamil Nadu - 636 102.

....Petitioner in
both Wps.

vs.

1.The Municipal Commissioner Admisitration cum
Chief Engineer,
Municipal Administration and Water Supply Department,
MRC Nagar, Santhome, Chennai-26.

2.The Regional Municipal Director,
Municipal Administration and Water Supply Department,
Salem Zone, Arisipalayam,
Salem - 636 009.

3.The District Collector,
Collectorate,
Salem District.

...Respondents 1 to 3
in both Wps.

4.The Commissioner,
Attur Municipality,
Attur Taluk, Salem District.

...4th Respondent in
WP.10801 of 2020

5.The Commissioner,
Narasingapuram Municipality,
Attur Taluk, Salem District.

...4th Respondent in
WP.10906 of 2020

Prayer in W.P.No.10801 of 2020: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records from the fourth respondent Tender Notification dated 29.07.2020 made in ROC.No.1364/2020/E1 which is published in "Indian Express News Paper" dated 31.07.2020, quash the same and consequently direct the fourth respondent to issue fresh Tender Notification and forbearing the fourth respondent from issuing Tender Notification under the Package System.

Prayer in W.P.No.10906 of 2020: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records from the fourth respondent Tender Notification dated 27.07.2020 made in Na.Ka.No.974/2020/A4, quash the same and consequently direct the fourth respondent to issue fresh Tender Notification and forbearing the fourth respondent from issuing fresh Tender Notification under the Package System.

In W.P.No.10801 of 2020

For Petitioner : Mr.A.Rajakumar
For R1 to R3 : Mr.E.Balamurugan
Special Government Pleader
For R4 : Mr.Mauriya
Standing Counsel

In W.P.No.10906 of 2020

For Petitioner : Mr.A.Rajakumar
For R1 to R3 : Mr.S.N.Parthasarathi
Government Advocate
For R4 : Mr.Mauriya
Standing Counsel

COMMON ORDER

Both the writ petitions have been filed challenging the tender notification issued by the forth respondent, wherein a package wise bid has been invited from Class 1 contractors.

2. The grievance of the petitioner in both the writ petitions is that the package tender system prevents small contractors from participating in various works since all the works are consolidated and made as a package. On an earlier occasion, a statement was made by the Government to the effect that package system has been dispensed with. Therefore, according to the petitioner the fourth respondent, much against the stand taken by the Government, has again resorted to package tender system.

3. Mr.Mauriya, learned Standing Counsel appearing on behalf of the fourth respondent submitted that the petitioner does not have any locus standi to challenge the tender notice issued by the fourth respondent Municipality. The learned counsel submitted that the petitioner and his father are Class 1 contractors and the father of the petitioner has already submitted an application to participate in the bid in both the packages and simultaneously the son has moved the writ petitions challenging the tender notification. The learned counsel submitted that the petitioner has not been prevented from participating in the tender process and therefore the petitioner cannot be called as aggrieved person.

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

5. The only ground on which the writ petitions have been filed before this Court is that each small works must be allotted to various small contractors and it should not be consolidated into a package whereby it will benefit only a single contractor. According to the petitioner, the fourth respondent issued a tender notification under two packages of different works and this goes against the statement made by the Government before this Court to the effect that the package tender system has been dispensed with.

6. This Court would have appreciated the ground raised by the petitioner if any of the small contractors had approached this Court questioning the tender notification. In this case the petitioner is eligible to participate in the tender and his father has already submitted an application to participate in the tender. Therefore the petitioner does not have the locus standi to challenge the tender notification issued by the fourth respondent and this Court cannot convert this writ petition as a Public Interest Litigation and allow the petitioner to plead on behalf of the small contractors. A writ of certiorari cannot be issued and the tender notification cannot be interfered on this ground.

7. This Court without going into the merits of the case, proceeds to dismiss both the writ petitions only on the ground of locus standi of the petitioner to question the tender notification issued by the fourth respondent.

8. These writ petitions are dismissed accordingly. No cost. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Municipal Commissioner Admisitration cum
Chief Engineer,
Municipal Administration and Water Supply Department,
MRC Nagar, Santhome, Chennai-26.

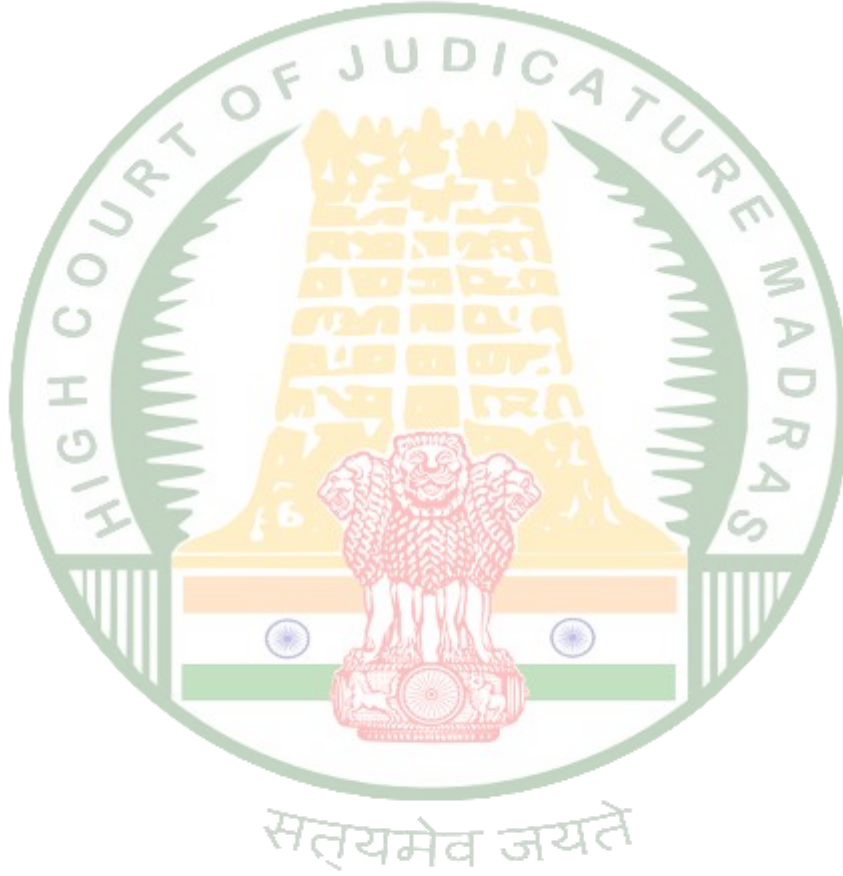
2. The Regional Municipal Director,
Municipal Administration and Water Supply Department,
Salem Zone, Arisipalayam,
Salem - 636 009.

3.The District Collector,
Collectorate,
Salem District.

+1cc to the Government Pleader, in Sr no.26997

W.P Nos.10801 & 10906 of 2020
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SSV (CO)
RV (03/09/2020)



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