

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.01.2020

Pronounced on : 21.01.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.14428 of 2018

and

W.M.P.No.17043 of 2018

M/s.P.Stellamary Fish Seed Supplier

.. Petitioner

..Vs..

1.The Commissioner,
Fisheries Department,
DMS Compound, Teynampet,
Chennai - 6.

2.The Under Secretary,
Ministry of Agriculture and Farmers Welfare,
Department of Agriculture and Co-operation and
Farmers Welfare,
Government of India,
New Delhi.

...Respondents

Prayer in W.P.No.14428 of 2018 : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to issue an order for supply of 22,00,000 (which is balance of 50,00,000 - 28,00,000) live fresh Water Grass Carp seeds for stocking in aquatic weeds infested water bodies under the NADP 2016-2017 (National Agriculture Development Programme/Rashtriya Krishi Vikas Yojana (Production Growth, Infrastructure and assets and Flexi fund streams)).

For Petitioner : Ms.Selvi George.

For R1 : Mr.S.R.Rajagopalan,
Additional Advocate General
for V.Shanmugasundaram
Special Government Pleader

For R2 : Mr.J.Madhanagopal Rao,
Senior Panel Counsel.

ORDER

This Writ Petition has been filed in the nature of Mandamus directing the 1st respondent namely, the Commissioner, Fisheries Department, DMS Compound, Teynampet, Chennai, to issue an order for supply of 22,00,000 live fresh Water Grass seeds for stocking in aquatic weeds infested water bodies under the NADP 2016-2017 National Agriculture Development Programme / Rashtriya Krishi Vikas Yojana (Production Growth, Infrastructure and assets and Flexi fund streams).

2. The 1st respondent had invited sealed tenders for supply of 50,00,000 live fresh water Grass carp seeds for stocking in aquatic weeds infested water bodies of Tamil Nadu under the NADP 2016-2017 National Agriculture Development Programme / Rashtriya Krishi Vikas Yojana (Production Growth, Infrastructure and assets and Flexi fund streams) Government of India Scheme and funds have been allotted by the Government of India. It is stated that the petitioner had submitted her tender and quoted Rs.3.94/- per seed and it was the lowest tender. The petitioner was called for negotiation, after negotiation, the price was reduced to Rs.3.49/-. An agreement was entered on 18.01.2017. The petitioner was asked to supply 28,29,513 seeds only. It was stated that since it was a Government of India scheme, the fund has to come from the Government of India. The petitioner started to execute the work. It was stated that she had reduced the price from Rs.3.94 to Rs.3.49 only because the tender was for 50,00,000 seeds. The petitioner had supplied the seeds as called for. The present Writ Petition had been filed to direct the 1st respondent to comply the supply of 50,00,000 lakhs live fresh water Grass carp seeds.

3. A counter affidavit had been filed by the 1st respondent stating that the Government of India only sanctioned Rs.1.20 crores only and it had purchased 28,29,500 grass crab seeds only. It is stated that the 1st respondent had reserved the right to award the contract in whole or part. It had been stated that after receiving a sum of Rs.101.25 lakhs from the Government of India, supply order was made only for 28,29,500 Nos. of grass crab seeds. It is stated that the petitioner had no right to demand supply of the remaining 22 lakhs seeds. It is stated that the necessity was restricted to stocking of 28.29 lakhs of grass crab fish seeds with respect to the amount released for first installment. It was stated that the scheme had been completed and consequently, the Writ Petition has to be dismissed.

4. The 2nd respondent had filed a counter affidavit, in which it had been stated that the scheme was Centrally Sponsored Scheme in 2014-2015 and since 2015-2016 the funding obtained had been altered in the ratio of 60:40 between Centre and States.

The Rashtriya Krishi Vikas Yojana (RKVY) scheme was to increase public investment in Agriculture and allied sectors. It was stated that the annual allocation will be released first installment to the State and after receiving the representation a further fund will be allotted. It was stated that the first installment of Rs.152.48 crores was allotted to Tamil Nadu on 24.05.2016. It was stated that it was an interim allocation. It was stated that thereafter, a total sum of Rs.202.87 crores have been released to Tamil Nadu. It was stated that the Government of India has no role in the entire issue and it was stated that the Writ Petition should be dismissed.

5. I have carefully considered the rival submissions.

6. The petitioner had participated in the tender for 50,00,000 fresh grass crab seeds. The State Government was dependent on the funds allotted by the Central Government. Depending on the allotment of the Central Government of a sum of Rs.101.25 lakhs, the State Government had reduced the supply to 28,29,500 number of grass crab seeds. This is the policy decision taken by the State Government. The petitioner had supplied the said number of grass crab seeds. The supply order mentioned only for 28,29,500 number of grass crab seeds. There is no obligation to place supply order based on the tender originally issued. Since, it is a policy decision, this Court cannot interfere with the same and give a mandamus to implement the decision of the Government. The petitioner had supplied 28,29,500 number of grass crab seeds and therefore the contract had come to an end. If at all the petitioner has any grievance, the petitioner should seek appropriate relief and this Court cannot adjudicate the same. Consequently, the Writ Petition is dismissed with liberty to seek appropriate relief for termination of the contract. No order as to costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-/-

सत्यमेव जयते Assistant Registrar (CS-III)

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Sub Assistant Registrar

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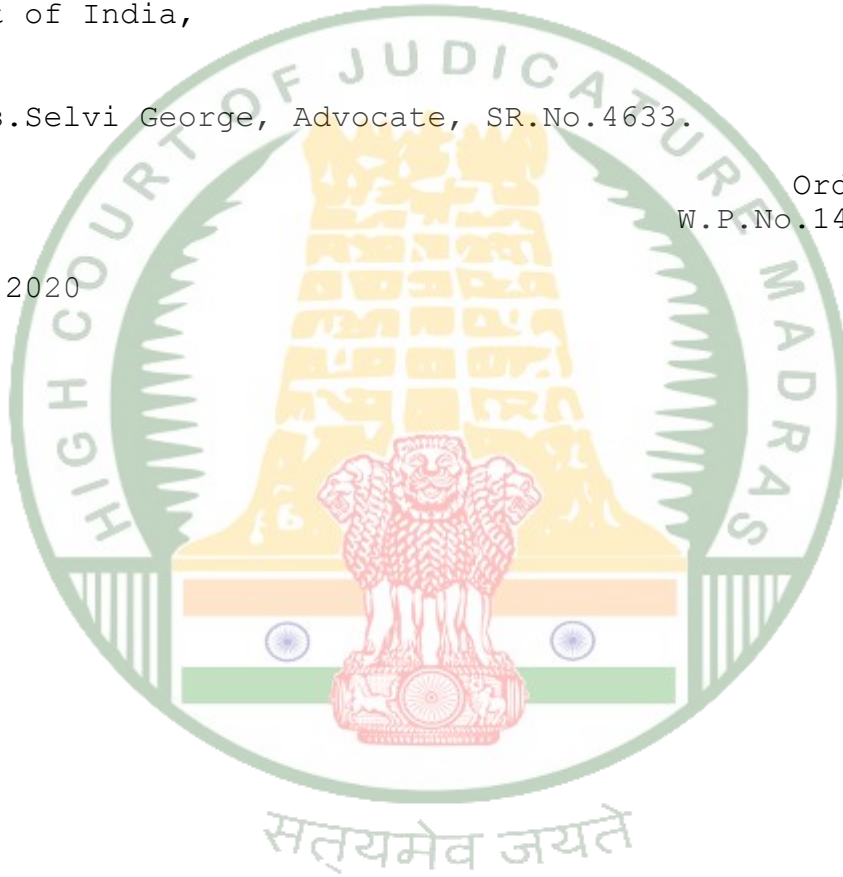
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2.The Under Secretary,
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Government of India,
New Delhi.

1cc to Mrs.Selvi George, Advocate, SR.No.4633.

Order made in
W.P.No.14428 of 2018

CA(CO)
CSR:22.01.2020



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