IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.32540 of 2019
WMP.Nos.32898 & 32899 of 2019

Vadalur Tahlamai Samarasa Suddha
Sanmarka Sathya Sangam,
rep.by R.Balakrishnan,
No.5, Alwar Nagar,
Neiveli Main Road, Vadalur
Cuddalore District 607 303. ...Petitioners

Versus

1.The Commissioner,
Hindu Religious and charitable Endowment,
Nungambakkam,
Chennai 600 034.

2.The Joint Commissioner / Thakkar,
Thiru Arutprakasa Valllalar Deiva Nilayam,
Vadalur, Kurinjipadi Taluk,
Cuddalore District.

3.Administrative officer,
Thiru Arutprakasa Vallalar Deiva Nilayam,
Vadalur, Kurinjipadi Taluk,
Cuddalore District. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Certiorari calling for the records relating to the public auction and Tender Notice dated 24.10.2019 issued by the respondents 2 and 3 and quash the same as null and void.

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For Petitioners : Mr.P.R.Balasubramanian
For Respondents : Mr.M.Karthikeyan for R1 and R2
Mr.M.Selvam for R3

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner Association makes a challenge to the impugned Tender Notification issued by Thakar / Assistant Commissioner and Executive Officer of Thiru Arutprakasa Valllalar Deiva Nilayam, Vadalur, Kurinjipadi Taluk, Cuddalore District.

2. The learned counsel appearing for the petitioner would submit that every year during Thai Poosam, lakhs and lakhs of devotees would come to Vadalur and participate in the festival Arutprakasa Ramalinga Adikalar (Vallalar) and taking advantage of the same, the respondents 2 and 3 had floated tenders for granting license in respect of three items and further pointed out that there are many contributions in the form of cash and payments in respect of the said festival and all welfare activities are done by the devotees themselves and hence there is no necessity to commission the revenue in the form of conducting tenders. The learned counsel appearing for the petitioner has also invited the attention of this Court to the Resolution passed in this regard by the petitioner Association dated 24.10.2019, which has also been submitted to the official respondents and despite receipt and acknowledgment, no response is forth coming and in the light of the fact that auction has also been conducted, the petitioner Association is constrained to approach this Court by filing this Writ Petition.

3. Mr.M.Karthikeyan, learned Standing Counsel (HR&CE) accepts notice on behalf of the respondents 1 to 3 and would submit that issuance of the tender notification, conducting of auction and granting of license are being done strictly in accordance with the Religious Institutions (Lease of Immovable Property) Rules, 1963 and also invited the attention of this Court to the typed set of documents filed on their behalf and would submit that in free, fair and transparent manner, public auction was conducted in respect of all three items and it was the third time exercise, for the reason that in respect of floating of two tenders on an earlier occasion, there was no proper response. It is the further submission of the learned counsel for HR&CE that the auction proceedings have also been forwarded to the 1st respondent for conformation and would assure that the conditions of Tenders for license shall be strictly

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adhered to and apart from the temporary shops and temporary parking provided during festival time, no other lands belonging to the said religious institution / public land will be under encroachment and also undertakes to file a Status Report with supporting documents in this regard.

4. The apprehension of the petitioner Association appears to be that under the guise of Tenders, there will be cartel between the authorities and the intending bidders for award of tenders and some other dubious methods would also be adopted and that apart, the devotees / worshipers are well doing their volunteer acts to regulate crowd and traffic and as such, there is no necessity to float tenders.

5. This Court has carefully considered the rival submission and also perused the materials placed before it.

6. It is a well settled legal position of law that the officials in discharge of public duties could not be found fault for bias or malafide, unless there are sufficient materials in the form of averments with supporting documents. The Religious Institutions (Lease of Immovable Property) Rules, 1963, which is statutory in nature, also permits the respondents to do so.

7. A perusal of the proceedings of the Assistant Commissioner of HR & CE, Villupuram dated 16.12.2019 in Na.Ka.No.5539/2019/Zz3 addressed to the Joint Commissioner of HR&CE, Villupuram would disclose that after inviting the tender through public advertisements, auctions were conducted in respect of three items and three persons were declared to be successful and a proposal was forwarded to the Joint Commissioner, HR&CE for approval, who in-turn forwarded the same to the 1st respondent for appropriate orders, vide proceedings dated 18.12.2019 in Na.Ka.No.10666/2019/A3. Therefore this Court finds no infirmity in conducting the tender process and however, the 1st respondent shall also ensure that free and transparent procedure is followed before finalizing the tender.

8. The respondents 2 and 3 are also directed to ensure strict adherence to the terms and conditions of the license, in the event of conformation of the successful tenderer and also ensure the free flow of traffic for devotees who coming for dharshan and shall also ensure that apart from allotted places, no other temporary shops are put up on public lands or land belonging to the said religious institution and that areas in and around the said religious places as well as the temporary shops shall be kept in neat tidy and sanitary conditions, in tune with the solemnity of the said festival.

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9. The Writ petition stands disposed of with the above directions. No costs. Consequently connected miscellaneous petitions are closed.

9. Call on 03.03.2020 for filing Status Report of the 2nd respondent with supporting documents and photographs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
1.The Commissioner,
Hindu Religious and charitable Endowment,
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Chennai 600 034.

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