



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.5085 of 2020 and

W.M.P.(MD)Nos.4428, 4430 & 10006 of 2020

S.Mercy Thanies Mary

... Petitioner

Vs.

1. Tamil Nadu Co-operative Milk Producers Federation Ltd.,
Rep. by its Managing Director/
Director of Milk Production and
Dairy Development Department,
Aavin Illam,
3A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.
2. The General Manager(MKG),
Tamil Nadu Cooperative Milk Producers Federation,
Aavin Illam, TCMPF Ltd.,
3A, Pasumpon Muthuramalinganar Salai,
Nandanam, Chennai - 600 035.
3. The General Manager,
D.D.160, Dindigul District Co-operative
Milk Producers Union Ltd.,
No.9, East Govindapuram,
Dindigul - 624 001.

4. S.Ganesan

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order in Na.Ka.No.692/DMD/2020 dated 13.02.2020 on the file of the second respondent and the consequential impugned order in Na.Ka.No.750/Pa.V/2019 dated 24.02.2020 on the file of the third respondent and quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy
For R-1 to R-3 : Mr.K.Chellapandian,
Additional Advocate General,
assisted by,
Mr.E.Marees Kumar,
Standing Counsel.



For R-4

: Mr.M.E.Ilango

O R D E R

Heard, Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner and Mr.K.Chellapandian, learned Additional Advocate General assisted by Mr.E.Mareeskumar, learned Standing counsel appearing for respondents 1 to 3 and Mr.M.E.Ilango, learned counsel appearing for the fourth respondent.

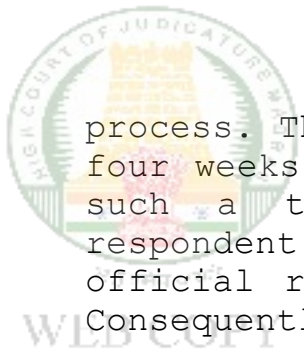
2. The writ petitioner herein was nominated to operate in a particular route in Dindigul District for supplying milk products of the third respondent units. Due to certain reasons, her license was terminated. The petitioner for reasons best known did not choose to challenge the same. The fourth respondent Ganesan was then operating on other routes. By the impugned order, the said Ganesan was given license to operate through out the district. These orders have been put to challenge primarily on the ground that the official respondents herein ought to have taken recourse to tender process and that they could not have resorted to nomination process.

3. The learned Additional Advocate General on instructions submitted that the official respondents would abide by any order or direction that may be passed by this Court. However, he submitted that due to certain compelling reasons, the impugned orders came to be passed and that the respondents ought not to be found fault. The learned counsel appearing for the fourth respondent however wanted me to sustain the orders impugned in this writ petition.

4. I carefully considered the rival contentions and went through the materials on record.

5. A reading of the impugned orders indicates that the nominations were made in favour of the fourth respondent based on his request. In the very nature of things, respondents 1 to 3 ought to have taken recourse to the tender process. If the tender process could not culminate in a proper outcome, then probably the authorities can think of the nomination process. But in this case, there is nothing on record to indicate that such a tender process was resorted to. In any event the impugned orders do not reflect the same. Therefore, I have no hesitation to quash the orders impugned in this writ petition.

6. This writ petition stands allowed. Respondents 1 to 3 are directed to issue tender notification and call for applications from eligible persons and finalise the tender



process. The entire exercise shall be concluded within a period of four weeks from the date of receipt of a copy of this order. Till such a tender process is finalised, of course the fourth respondent can continue to function as the licensee of the official respondents for the entire Dindigul District. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

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Director of Milk Production and
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3. The General Manager,
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Milk Producers Union Ltd.,
No.9, East Govindapuram,Dindigul - 624 001.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-16552[F] dated 10/09/2020)

W.P. (MD) No.5085 of 2020
08.09.2020

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