



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.16297 of 2020

V.Prabhu

.. Petitioner

Vs

1.The District Collector,
Theni, Theni District.

2.The Assistant Director,
Andipatti Town Panchayat,
Theni District.

3.The Executive Officer cum Tender Inviting Authority,
Andipatti Town Panchayat,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the petitioner's Earnest Money deposit sum of Rs.10,00,000/- (Rupees Ten Lakhs only), which was deposited for participating in the tender for Andipatti Town Panchayat by considering the representation of the petitioner dated 05.09.2020 within the time that may be stipulated by this Court.

For Petitioner : Mr.B.Baskar

For Respondents : Mr.C.Ramesh for R1 & R2
Special Government Pleader
Mr.C.M.Marichelliah Prabhu for R3
Additional Government Pleader

ORDER

(This writ petition is heard through video conference)

This writ petition has been filed for a Mandamus seeking for a direction to the third respondent to refund the petitioner's Earnest Money Deposit amount of Rs.10,00,000/-, which was deposited by him for participating in the tender for Aundipatti Town Panchayat by considering the petitioner's representation dated 05.09.2020.



2.Heard Mr.B.Baskar, learned counsel appearing for the petitioner, Mr.C.Ramesh, learned Special Government Pleader, appearing for the respondents 1 and 2 and Mr.C.M.Marichelliah Prabhu, learned Additional Government Pleader for the third respondent.

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3.It is the case of the petitioner that he participated in the tender called for by the third respondent on 08.07.2019, for collecting fee (including Rubbish and Dung) in the weekly market at Andipatti Town Panchayat. According to him, he paid a sum of Rs.10,00,000/- as Earnest Money deposit to the third respondent for participating in the tender. According to him, he was declared as successful bidder by the third respondent. It is the case of the petitioner that there were only 60 shops in the weekly market, even though the tender notification discloses that there were 160 shops. It is his case that due to the said reason, he did not pay the balance tender amount. According to him, the tender was cancelled by the third respondent, since the balance amount is not paid by the petitioner. Therefore, the petitioner has filed W.P.(MD).No.18814 of 2019, before this Court, challenging the cancellation of the tender in his favour. Subsequently, the petitioner has also withdrawn the said writ petition on 13.03.2020. Thereafter, the petitioner has given a representation to the third respondent on 05.09.2020 seeking for refund of the Earnest Money deposit of Rs.10,00,000/-. It is the case of the petitioner that till date the said representation was not considered by the third respondent. In such circumstances, this writ petition has been filed.

4.The relief sought for by the petitioner is an innocuous relief. No prejudice will be caused to the respondents, if the representation of the petitioner seeking for refund of a sum of Rs.10,00,000/- alleged to have been paid by him towards Earnest money deposit for participating in the tender called for by the third respondent, is considered by the third respondent on merits and in accordance with law. The petitioner has admittedly participated in the tender and he now seeks refund of the Earnest Money deposit, since he has withdrawn the writ petition W.P.(MD).N.18814 of 2019 filed by him before this Court, challenging the termination of contract issued by the third respondent. It is for the third respondent to consider the petitioner's representation, seeking for refund of Earnest Money deposit on merits and in accordance with law.

5.For the foregoing reasons, this Court directs the third respondent to consider the petitioner's representation dated 05.09.2020, seeking for refund of the Earnest Money Deposit of Rs.10,00,000/- paid by him on 18.06.2019 for participating in the tender for Andipatti Town Panchayat and pass final orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.



6. With the aforesaid direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (crl side)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

To

1. The District Collector,
Theni, Theni District.

2. The Assistant Director,
Andipatti Town Panchayat,
Theni District.

3. The Executive Officer cum Tender Inviting Authority,
Andipatti Town Panchayat,
Theni District.

+1 CC to SPL GP (SR-22369[F] dated 20/11/2020)

W.P. (MD) No.16297 of 2020
19.11.2020

VB (30.11.2020) 3P 5C