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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WRIT PETITION NO.9275 OF 2021

AND

W.M.P.NO.9837 OF 2021

Selvaraj P.

... Petitioner

-Vs-

1. The Thammampatti Special Town Panchayat,
Rep by its Executive Officer,
Thammampatti, Gangavalli Taluk,
Salem District.
2. The office of the Assistant,
Director of Town Panchayat,
Salem Zonal, Salem District.
3. The District collector,
Collectorate office,
Salem District.
4. The Directors of Town Panchayats,
MRC Nagar, Raja Annamalaipuram,
Chennai - 28.

... Respondents

PRAYER:-

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the Respondents 1 and 2 to declare the petitioner as a successful Bidder and grant such other suitable relief.

For Petitioner : Mr.T.Dharmarajan

For Respondents : Mr.R.Venkatesan
For R1

Mr.U.Baranidharan
Government Advocate
For RR 2 to 4



O R D E R

This writ petition has been filed for the issue of a writ of mandamus directing the first and second respondents to declare the petitioner as the successful bidder.

2. The case of the petitioner is that the first respondent had conducted an auction on 25.02.2021 and the petitioner also participated in the said auction and submitted his bid. According to the petitioner, the highest bidder did not comply with the conditions of the tender notification and hence the petitioner who is the second highest bidder has to be awarded the tender.

3. When the matter came up for hearing on 04.08.2021, this Court passed the following order.

"Mr.U.Bharanidharan, learned Government Counsel, who took notice on behalf of the respondents 1 to 4, seeks for some time to take instructions from the 1st respondent. The learned counsel for the petitioner submitted that the petitioner had participated in the auction and he was the second highest bidder. The learned counsel further submitted that the highest bidder did not comply with the condition and hence, the petitioner has to be considered, since he is 2nd in line.

2. The learned Government Counsel shall take instructions in this regard and report before this Court. Post this case under the caption for orders on 10.08.2021."

4. The first respondent has filed a counter affidavit and the relevant portions of the counter are extracted hereunder.

" 7. It is further submitted that since the earlier tender was expired on 31.03.2021, the notification was notified on 18.02.2021 vide Na.Ka.No.25/2021/A1, inviting tenders. Then the auction was conducted on 25.02.2021 and the tender was given to highest tenderer.

8. I submit that the contents placed in Para No.5 of an affidavit are erroneous. It is submitted that as per the auction conducted on 25.02.2021, the tender was given to one M.Jayamani and he has paid the entire auction amount with the office of Thammampatti Town Panchayat and the tender process was complete.



Further, the tender amount quoted by M.Jayamani was higher than the amount quoted by the petitioner. Therefore, the tender was given to the said M.Jayamani."

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5. Heard Mr.T.Dharmarajan, learned counsel appearing for the petitioner and Mr.U.Bharanidharan, learned Government Advocate appearing for the respondents.

6. It is quite clear from the counter that, the tender process itself was completed on 31.03.2021 and the tender has been awarded in favour of one M.Jayamani, who was the highest bidder. According to the petitioner, the tender notification mandates the payment of the entire bid amount in a single installment, whereas the highest bidder had paid it in four installments and therefore, the tender issued in favour of the said Jayamani is liable to be cancelled and the tender must be granted in favour of the petitioner, who is the second highest bidder.

7. In the considered view of this Court, the tender that was issued in favour of the above said Jayamani is not under challenge before this Court. The said Jayamani is also not a party in this writ petition and no adverse orders can be passed against him in his absence. If the petitioner is aggrieved by the grant of tender in favour of Jayamani, he has to independently challenge the same by adding Jayamani also as party in the writ petition. While making such a challenge, whatever grounds require to be raised, can be raised in the writ petition and it has to be met by the respondents and the highest bidder Jayamani and orders will be passed after considering the same.

8. Considering the limited scope of the present writ petition, such an exercise cannot be done in the present writ petition. Except giving this liberty, no further orders can be passed in this writ petition. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KST



To

1. The Executive Officer,
Thammampatti Special Town Panchayat,
Thammampatti, Gangavalli Taluk,
Salem District.

2. The office of the Assistant
Director of Town Panchayat,
Salem Zonal,
Salem District.

3. The District collector,
Collectorate office,
Salem District.

4. The Directors of Town Panchayats,
MRC Nagar, Raja Annamalaipuram,
Chennai - 28.

+1cc to Mr.T.Dharmarajan, Advocate, S.R.No.39948

+1cc to the Government Pleader, S.R.No.40033

+1cc to Mr.T.Dharmarajan, Advocate, S.R.No.39948 (20/09/2021)

W.P.NO.9275 OF 2021

KSM(CO)
PBS/27/08/2021