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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.17903 of 2021
WMP.Nos.19106 & 19108 of 2021

N.Ranganathan

.. Petitioner

Vs

1. The Additional Secretary to Government
Municipal Administration and
Water Supply Department
Secretariat, Chennai.
 2. The Managing Director
Chennai Metropolitan Water Supply and
Sewerage Board
No.75 Santhome High Road
M.R.C. Nagar, R.A.Puram
Chennai - 600 028.
 3. The Inspector General of Registration
Mylapore, Chennai - 600 003.
 4. Cobra Instalaciones Y Services S.A. in Spain in JV
Tecton Engineering and Construction LLC, UAE JV
Calle Cardenal Marcello Spinola, 10-28016
Madrid, Spain.
- .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records of G.O. Ms.No.113 of Municipal Administration and Water Supply (MW.1) Department dated 22.10.2020 of the 1st Respondent, quash the same and grant such other and further relief which this court deems fit and proper in the circumstances of this case.

For the Petitioner : Mr.K.Saktivel



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For the Respondents : Mr.R.Shunmugasundaram
Advocate-General
assisted by
Mr.P.Muthukumar
State Government Pleader
for respondents 1 and 3

: Mr.C.Vigneswaran
for 2nd respondent

: Mr.AR.L.Sundaresan
Senior Advocate
for Mr.P.J.Rishikesh
for 4th respondent

ORDER

(Order of the Court was made by Hon'ble Chief Justice)

There can be no doubt that the present petition has been filed with an ulterior motive and is not in public interest. At any rate, in matters of the present kind intervention by citizens ought to be discouraged unless there appears to be a glaring case of graft or the like.

2. The matter pertains to the award of a contract by the State Government or a government undertaking to the fourth respondent consortium. The fourth respondent is a agglomeration of several entities and, as a consortium, it was required to pay a certain amount by way of registration fees. At the time that the offer was made by the fourth respondent, the law prevailing was as governed by a single Bench judgment then to the effect that, in such a scenario, the registration fee would not be payable.

3. However, subsequent to the offer being made by the fourth respondent, the decision of the single Bench was upset by a Division Bench of this court wherein it was held that it was obligatory for the registration to be obtained upon payment of the requisite fees. The contract between the fourth respondent and the government envisages that any expenditure which may arise during the tenure of the agreement, but could not be foreseen at the time of the making of the offer, would be to the account of the employer and not the contractor. Accordingly, the fourth respondent, pursuant to the change of the prevailing law in terms of the Division Bench judgment, required the additional expenditure pertaining to registration to be borne by the employer.



4. It was in such circumstances that the impugned government order was issued, waiving the payment.

5. Apart from the fact that when it comes to commercial decisions of the executive in such matters, courts are slow to intervene, it cannot be lost sight of that the registration fees at the end of the day are received by the government. If the parties to the contract were ad idem that the unforeseen expenditure had to be borne by the relevant government employer and such fees are waived by a government notification, a citizen cannot complain against the same. The real effect of the waiver is the stopping of the government paying out of its left hand for it to receive by its right hand.

For the reasons aforesaid, the attempt by the present petitioner to interfere in the process is found to be completely unwarranted. W.P.No.17903 of 2021 is dismissed. The petitioner will pay costs to the State assessed at Rs.5,000/-. W.M.P.Nos.19106 and 19108 of 2021 are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Additional Secretary to Government
Municipal Administration and
Water Supply Department
Secretariat, Chennai.
2. The Managing Director
Chennai Metropolitan Water Supply and
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No.75 Santhome High Road
M.R.C. Nagar, R.A.Puram
Chennai - 600 028.
3. The Inspector General of Registration
Mylapore, Chennai - 600 003.

+1CC to Mr.P.J.Rishikesh, Advocate, Sr.No.58260

W.P.No.17903 of 2021

KSM (CO)

K.RK. (29.11.2021)