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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.16832 of 2021

V.M.Nachimuthu

...Petitioner

Vs

1.The Collector
Office of the Collectorate
Coimbatore.

2.The Pollachi Municipality
Rep.by its Commissioner
Pollachi, Coimbatore District.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd respondent to consider the representation of the petitioner dated 06.10.2020 and 30.07.2021 to refund the sum of Rs,18,00,000/- paid on 13.02.2018 towards the Earnest Money Deposit to the petitioner.

For Petitioner : Mr.M.Raja Sekhar

For Respondents : Mr.A.Selvendran,
Government Advocate

O R D E R

This Court directed Mr.A.Selvendran, learned Government Advocate to take notice on behalf of the respondents.

2. This writ petition has been filed for the issuance of a Writ of Mandamus directing the second respondent to consider the representations made by the petitioner on 06.10.2020 and 30.07.2021, wherein the petitioner is seeking for refund of the Earnest Money Deposit payment made to the tune of Rs.18 Lakhs.



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3. The case of the petitioner is that, he participated in the tender that was conducted by the second respondent Municipality in the year 2018 and he was declared the highest bidder. The tender pertained to conducting cattle sandy at Gandhi Weekly Market, Pollachi. The petitioner paid the bid amount of Rs.56,10,748/- as per the tender conditions. He was permitted to conduct the cattle sandy from 01.05.2008 for a period of three years and the cattle sandy was supposed to be conducted on every Tuesday and Thursday in the Gandhi Weekly Market.

4. There was a spread of foot and mouth disease during the month of November 2018 and therefore, the first respondent issued directions to close down the cattle sandy in order to prevent its spread. Thereafter, the petitioner found that one Arusamy started parallelly conducting cattle sandy without any authorisation. Aggrieved by the same, the petitioner filed a writ petition before this Court in W.P.No.9709 of 2019 in order to stop the said Arusamy from conducting the cattle sandy. This Court disposed of the writ petition by an order dated 27.07.2019 and directed the first respondent to take action within a period of one week.

5. Aggrieved by the above order, the said Arusamy preferred a Writ Appeal in W.A.No.793 of 2019 and the appeal was dismissed by making an observation that, before action is initiated, notice must be given to the said Arusamy and further action can be taken.

6. The petitioner, in the meantime, found that he was never permitted to conduct the cattle sandy and the said Arusamy, in spite of the orders of this Court, continued to conduct the cattle sandy. A Contempt Petition was also filed in this regard by the petitioner in Cont.Petition No.608 of 2019. When the Contempt Petition was taken up for hearing before this Court, it was informed that no permission was granted to the said Arusamy to conduct the cattle sandy. This Court, recording the said submission, closed the Contempt Petition, by an order dated 23.09.2019.

7. The petitioner, right through was not able to effectively conduct the cattle sandy either because it was prevented by the first respondent on account of the foot and



mouth disease or because the above said Arusamy kept on conducting the cattle sandy without any authority. Therefore, the petitioner made a representation on 26.04.2019 seeking for cancelling his licence and to refund a sum of Rs.18,00,000/- (Rupees Eighteen Lakhs Only) that was paid as Earnest Money Deposit. In the meantime, the second respondent once again issued a tender for conducting the cattle sandy in Gandhi Market on 06.07.2021. The petitioner did not participate in this auction conducted by the second respondent.

8. The grievance of the petitioner is that, in spite of the repeated representations made to the second respondent requesting for the refund of Earnest Money Deposit of Rs.18 Lakhs, the same has not been considered and left with no other option, the present writ petition has been filed seeking for appropriate direction.

9. Heard Mr.M.Raja Sekhar, learned counsel appearing for the petitioner and Mr.A.Selvendran, learned Government Advocate appearing for the respondents.

10. Taking into consideration the facts and circumstances of the case, the earlier proceedings that took place before this Court, and also after taking into consideration Clause 15 of the terms and conditions of the tender dated 31.01.2018, there shall be a direction to the second respondent to consider the representations made by the petitioner dated 06.10.2020 and 30.07.2021 and take a decision with regard to the refund of the Earnest Money Deposit of a sum of Rs.18 Lakhs (Rupees Eighteen Lakhs only) to the petitioner within a period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation to the second respondent along with all the relevant documents and a copy of this order.

11. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

KST

