



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.2437 of 2021

and W.M.P. (MD) No.2011 of 2021

(Through Video Conference)

T.Palraj

...Petitioner

Vs.

1) Senior Divisional Commercial Manager,
Southern Railway, Madurai 652 016
Madurai District.

2) The Divisional Railway Manager (Commercial)
Divisional Office, Southern Railway,
Madurai 652 016
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to award the contract forthwith in favour of the petitioner for the maintenance of Pay & Use Toilets at Ramanathapuram Railway Station for a period of 90 days.

For Petitioner : Ms.Amala

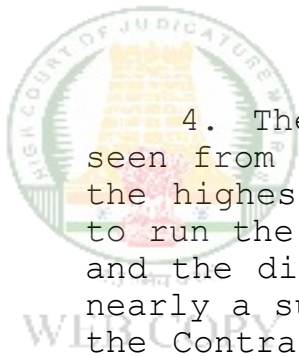
For Respondents : Mr.S.Manohar,
Standing counsel

O R D E R

This Writ Petition has been filed for the issue of Writ of Mandamus directing the respondents to award the contract in favour of the petitioner and grant license to the petitioner to run the Pay and Use Toilets at Ramanathapuram Railway Station for a further period of 90 days.

2. The case of the petitioner is that he has been eking his livelihood through the Contract awarded in his favour by the respondents for the last 13 years. According to the petitioner, he is handicapped with 50% disability and he has to take care of his family and a mentally retarded brother. The petitioner was granted license to maintain the Pay and Use Toilets and the period came to an end on 06.02.2021.

3. The respondents proceeded to call for a tender and allot the contract for the Pay and Use Toilets to the highest bidder. The petitioner also participated in this tender and the petitioner was ranked as L-2. The petitioner became aware that the license will be given in favour of L-1 and hence, thought it fit to file the present writ petition, merely on the grounds of mercy.



4. The respondents have filed a counter affidavit and it is seen from the counter affidavit that the eligible bidder has quoted the highest value of Rs.15,555/- for grant of license for 90 days, to run the Pay and Use Toilets. The petitioner has quoted Rs.6,000/- and the difference between the highest bidder and the petitioner is nearly a sum of Rs.9,555/-. The Railways has made it very clear that the Contract is granted for a short time of 90 days and therefore, they want to ensure that they earn the maximum revenue.

5. Heard Ms.Amala, learned counsel for the petitioner and Mr.S.Manohar, learned standing counsel appearing for the respondents.

6. This Court, while entertaining the writ petition and granting an interim order, was given an impression that the difference between the petitioner and the highest bidder was only Rs.500/-. However, the counter affidavit reveals the fact that the difference is almost a sum of Rs.9,555/-

7. In the matter of revenue, there is only a limit up to which the Court can exercise its discretion and orders cannot be passed merely based on sympathy. The petitioner, having filed a Writ of Mandamus, must establish some semblance of legal right and the corresponding legal duty on the part of the respondents. The same is completely absent in the present case and the petitioner seems to be hoping to get a favorable order only on the ground of mercy.

8. This Court does not find any ground to grant the relief claimed by the petitioner and in the absence of a specific challenge to the tender invited by the respondents, this Court cannot interfere in the tender process in the present writ petition. In the result, this writ petition is dismissed. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD) No.2011 of 2021 stands closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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:

1) Senior Divisional Commercial Manager,
Southern Railway, Madurai 652 016
Madurai District.

2) The Divisional Railway Manager (Commercial)
Divisional Office, Southern Railway,
Madurai 652 016
Madurai District.

+1 CC to M/s.A.AMALA, Advocate (SR-15572[F] dated 09/04/2021)

+1 CC to M/s.S.MANO HAR, Advocate (SR-15654[F] dated 09/04/2021)

W.P. (MD) No.2437 of 2021
08.04.2021

TP (CO)
KB (27.04.2021) 3P 5C