



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]No.942 of 2021

M/s.Star Seven Eleven,
Represented by its Proprietor,
P.Nagarathinam,
G, 26/1, STAR 7, 11,
Ramiyah Street,
Jaihinpuram, Madurai.

... Appellant

Vs.

1. The Development Commissioner,
MSME,
Nirman Bhavan, A-Wing,
7th Floor, Maulana Azad Road,
New Delhi - 110 108.

2. State represented by,
Secretary to Government,
Micro, Small and Medium Enterprises (D2) Department,
Secretariat,
Chennai.

3. State represented by,
Secretary to Government,
Public Works Department,
Secretariat, Chennai.

4. National Small Industries Corporation Ltd.,
No.74, ADR Towers, 1st Floor,
Kalavasal,
Theni Main Road,
Madurai - 625 016.

5. The Commissioner,
Madurai Corporation,
Aringar Anna Maligai,
Madurai.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order in W.P.[MD]No.5749 of 2021 dated 15.03.2021.



Prayer in WP(MD) . 5749 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue any order, direction or writ , especially , in the nature of Writ of Mandamus directing the Respondents herein to ensure the implementation of the benefits given by the MSME Development Act, 2006 Which is adopted by the Tamilnadu Transparency in Tender Act in all their tender process so as to enable the petitioner firm which is duly registered under MSME Act, to participate in the tender process of Government departments by availing the benefits available to them as per MSME Act and consider them for allotment of tenders if the petitioner firm is otherwise eligible.

For Appellant	: Mrs.Porkodi Karnan For M/s.Polax Legal Solutions
For Respondent No.1	: No appearance
For Respondents 2 & 3	: Mr.A.K.Manickam, Standing Counsel for Govt.,
For Respondent No.4	: Mr.N.S.Karthikeyan
For Respondent No.5	: T.S.Mohammed Mohideen

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mrs.Porkodi Karnan, learned Counsel appearing for the appellant, Mr.A.K.Manickam, learned Standing Counsel for the Government appearing for the respondents 2 and 3, Mr.N.S.Karthikeyan, learned Counsel appearing for the fourth respondent and Mr.T.S.Mohammed Mohideen, learned Counsel appearing for the fifth respondent.

2.This Writ Appeal is directed against the order in W.P.[MD] No.5749 of 2021 dated 15.03.2021.

3.The petitioner is a proprietorship concern which provides varied services and they sought for a direction upon the respondents to implement the benefits given by the Micro Small and Medium Enterprises Act, 2006, which has been adopted by insertion of Section 30-A in the Tamil Nadu Transparency in Tenders Act, 1988 and implement the same in all tender processes, so as to enable not only the appellant but others who are registered in the MSME Act to participate in the tenders invited by the Government Department as well as the local bodies. The Writ Petition was dismissed on the ground that a blanket direction cannot be granted.

4.It may be true that a Writ Court cannot issue a blanket direction to extent certain concessions or privileges to the service providers, if they are registered under the provisions of the MSME



Act. In the instant case the said provision of the MSME Act has been adopted and Section 30-A has been inserted in the Tender Transparency Rules, 2012 as amended in the year 2018. Though it appears that in the Tamil Nadu Rules, the entire benefits or privileges granted under the central enactment are not being replicated, yet certain benefits have been extended to the service providers registered under the MSME Act. Since a uniformed decision has to be taken for all procedures and tenders throughout the state, it would be advisable for the second respondent to take a decision in the matter by considering all the factors and also the Government that great importance has been given to the MSME sectors, as they play a vital role in the industrial and economical growth of the country.

5. In the light of the above, we dispose of this Writ Appeal by directing the petitioner to submit a detailed representation to the second respondent along with a copy of this order as well as the earlier representations, if any. On receipt of the said representation, it would be open to the second respondent to hold discussions with the representatives of MSME industries in Tamil Nadu and if there is an association of MSME industries, they can also participate. Since the appellant is a person who has spirited the entire issue, the appellant shall also be invited for the discussion and a conscious decision shall be taken as expeditiously as possible, in accordance with law. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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. The Development Commissioner,
MSME, Nirman Bhavan, A-Wing,
7th Floor, Maulana Azad Road,
New Delhi - 110 108.



2. The Secretary to Government,
State of Tamil Nadu,
Micro, Small and Medium Enterprises (D2) Department,
Secretariat, Chennai.

3. The Secretary to Government,
State of Tamil Nadu,
Public Works Department,
Secretariat, Chennai.

4. National Small Industries Corporation Ltd.,
No.74, ADR Towers, 1st Floor,
Kalavasal,
Theni Main Road, Madurai - 625 016.

5. The Commissioner,
Madurai Corporation,
Aringar Anna Maligai, Madurai.

+1 CC to M/s.N.S.KARTHIKEYAN, Advocate (SR-22832[F] dated 16/07/2021)

+1 CC to M/s.POLAX LEGAL SOLUTION, Advocate (SR-22831[F] dated 16/07/2021)

+1 CC to M/s.T.S.MOHAMMED MOHIDEEN, Advocate (SR-23012[F] dated 16/07/2021)

**W.A. [MD]No.942 of 2021
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RC (03.08.2021) 4P-9C