



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.15462 of 2021

and

W.M.P(MD)No.12354 of 2021

D.Sreedhar

... Petitioner

Vs.

1.The Commissioner,
Corporation of Madurai,
Madurai.

2.The Collector,
Madurai District,
Madurai.

3.The Secretary,
Municipal Administration,
Urban and Water Supply Department,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to conduct the tender which was proposed to be conducted in pursuance of the notification dated nil under Reference No.Mava4/000600/2021-1, 2, 3 & 4 issued by the first respondent in on-line mode also forthwith.

For Petitioner	: Mr.J.Sankarapandian
For R - 1	: Mr.P.Athimoola Pandian
For RR 2 & 3	: Mr.P.Thilak Kumar
	Standing Counsel for the Government

ORDER

(Order of the Court was made by M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus, directing the first respondent to conduct the tender which was proposed to be conducted in pursuance of the notification dated nil issued by the first respondent in on-line mode also forthwith.

2.Though the petitioner has filed the Writ Petition as a Public Interest Litigation to direct the first respondent to conduct e-tender instead of the physical tender, the learned counsel appearing



for the petitioner submitted that the first respondent had violated the provisions of the Tamil Nadu Transparency in Tenders Act, 1998.

3.Mr.P.Athimoola Pandian, learned counsel taking notice for the first respondent, submitted that in view of the judgment reported in **(2005) 1 MLJ 394 [S.Selvarani Vs. The Commissioner, Karaikudi Municipality and another]**, the prayer in the writ petition is liable to be rejected.

4.The Honourable Division Bench of this Court in the judgment reported in **(2005) 1 MLJ 394 [S.Selvarani Vs. The Commissioner, Karaikudi Municipality and another]**, held as follows:

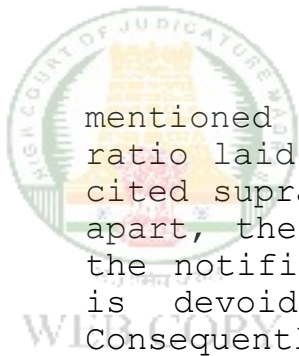
"13. Apart from what is stated above, we are of the opinion that The Tamil Nadu Transparency in Tenders Act, 1998, may not be applicable to the facts of the present case, because the word "Procurement" in the aforesaid Act has been defined in Section 2(d) as follows:

"'Procurement' means acquisition by any means by purchase of goods or services and also of construction."

We are at a loss to understand as to how the right to collect rent from the road-side vendors can be said to be a 'procurement' as defined in aforesaid Act. The said right is neither purchase of goods nor of services.

14.Even at the cost of repetition, we reiterate that the award of Government contracts through public auction/public tender is the rule and award of such contracts through 'private negotiations', except under certain contingencies mentioned above, must be frowned upon as it will give rise to speculations in the minds of the general public of some surreptitious, illegal or corrupt practices in collusion with the authorities concerned. Now a days, the Government contracts or contracts awarded by instrumentalities of the State are often worth crores and crores of rupees and unless there is transparency in awarding of such contracts, there is bound to be great dis-satisfaction and speculation in the minds of the general public of some underhand dealing. This would also be violative of Article 14 of the Constitution."

5.It is an admitted fact that the tender has already started at 11.30 a.m., today. The petitioner by way of Public Interest Litigation has filed the Writ Petition at the fag-end of the period



mentioned in the notification issued by the first respondent. The ratio laid down by the Division Bench of this Court in the Judgment cited supra squarely applies to the facts of the present case. That apart, the petitioner has not made out a case for interfering with the notification issued by the first respondent. The Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// 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.The Commissioner,
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Madurai.
- 2.The Collector,
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Madurai.
- 3.The Secretary,
Municipal Administration,
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W. P (MD) No.15462 of 2021

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RS (06.09.2021) 3P 4C