



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.19297 of 2020

and

W.M.P. (MD)No.16103 of 2020

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Core Live Foundation,
No.116/5, Keelavaithyanadhapuram,
Thathaneri Main Road,
Madurai-625 018,
Rep. by its partner,
R.Pandi

... Petitioner

-Vs-

- 1.The Commissioner of Municipal Administration,
Ezhilagam,
Chennai.
- 2.The Regional Director Municipal Administration,
Tirunelveli District,
Tirunelveli.
- 3.Virudhunagar Municipality,
Represented by its Commissioner,
Virudhunagar.
- 4.Excernet Network,
8, M.M.Complex,
Kalpalam Road,
Korripalayam,
Madurai.
(R4 is suo motu impleaded
vide Court order dated 29.01.2021
in WP(MD)No.19297/2020)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the third respondent Virudhunagar Municipality to confirm the Tender for engaging workers for municipal Solid Waste Management Services comprising of Door to door collection of MSW road/street sweeping, drain cleaning and storage of waste at designated collection points on contract basis for a period of one year in ward Nos.1 to 36 Virudhunagar Municipality vide Tender Ref.No.10145/2018/H1, dated 30.09.2020 in favour of the petitioner without disqualifying the petitioner for the non mentioning of breakup of the rates, specifying the daily wage to be paid pursuant to communication of Virudhunagar Municipality dated 17.11.2020 in Na.Ka.No.10145/2018/H1.



For Petitioner : Mr.N.Dilip Kumar
For R1 & R2 : Mr.M.Rajarajan
Additional Government Pleader
For R3 : Mr.K.P.Krishnadhas
For R4 : Mr.T.Lajapathi Roy

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ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for R1 & R2 and the learned Standing Counsel appearing for the third respondent Municipality and the learned counsel appearing for the fourth respondent.

2.The third respondent Municipality invited tender bids for engaging workers relating to municipal solid waste management services. The petitioner was one of the tenderers. There is no dispute that the offer made by the petitioner was the lowest one. But then, the petitioner was not awarded the contract. Instead of straight away awarding the contract to the petitioner, the Municipality issued show cause notice dated 17.11.2020 to the petitioner herein. The petitioner submitted his explanation dated 23.11.2020. Apprehending that the contract may be awarded in favour of the highest tenderer, the writ petition came to be filed on 16.12.2020. On 17.12.2020, the contract was awarded in favour of the fourth respondent, even though the fourth respondent was only L2.

3.The respondents 3 and 4 have filed their counter affidavits.

4.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

5.I am however not inclined to consider the contentions advanced by the petitioner's counsel on merits. Suffice it to note that when the third respondent issued a show cause notice and an explanation was also submitted, it was incumbent on the part of the third respondent to have passed final orders. The third respondent clearly erred in proceeding to award the contract in favour of the fourth respondent without disposing of the explanation given by the petitioner in response to the show cause notice dated 17.01.2020. Yet in as much as the issue pertains to solid waste management, I am not inclined to interfere at this stage.

6.The third respondent is directed to pass final orders on the explanation given by the petitioner on merits and in accordance with law within a period of seven days from the date of receipt of a copy of this order. The contract awarded to the fourth respondent will



abide by the decision to be taken by the third respondent. If the third respondent's decision is not in favour of the petitioner, it is always open to the petitioner to move this Court again and all the contentions of the petitioner are left open.

7.The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 of Municipal Administration,
Ezhilagam,
Chennai.

2.The Regional Director Municipal Administration,
Tirunelveli District,
Tirunelveli.

3.The Commissioner, Virudhunagar Municipality,
Virudhunagar.

+1 CC to M/s.K.P.KRISHNADOSS, Advocate (SR-4761[F] dated 12/02/2021)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-4829[F] dated 12/02/2021)

+1 CC to M/s.GP (SR-5152[F] dated 15/02/2021)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-5181[F] dated 15/02/2021)

W.P. (MD)No.19297 of 2020
12.02.2021

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