



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.12.2021
CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WEB COPY

W.P. (MD).No. 23192 of 2021
and
W.M.P.(MD) No. 19625 and 19626 of 2021

Selvakumar

... Petitioner

Vs.

1. The District Collector,
Tenkasi District,
Tenkasi.
2. The Additional Director,
Rural Development Department,
Tenkasi,
Tenkasi District.
3. The Block Development Officer,
Tenkasi,
Tenkasi District.
4. The President,
Ayiraperi Panchayat,
Tenkasi District.

... Respondents

Prayer : Petition filed under Article 226 of Constitution of India for the issuance of a writ of certiorari, calling for the records in pursuant to the impugned notification dated 17.12.2021 issued in 3/1887/2021 by the third respondent and quash the same.

For Petitioner : Mr. S. Chellapandian

For Respondents : Mr. D, Ghandi Raj
Special Government Pleader

O R D E R

As a matter of fact, when the matter was mentioned in the morning, the writ petitioner has not even filed the writ petition. Therefore, the writ petition was not numbered during the course of the day and thereafter only on permission being granted, the writ petition was numbered and it has been brought before me at 3.30 pm.

2. The writ petitioner, has filed the writ petition in the nature of certiorari seeking a direction with respect to the records of a notification dated 17.12.2021 issued by the third



respondent / Block Development Officer, Thenkasi and to quash the same.

3. The petitioner is a resident of Ayiraperi in Thenkasi District. He naturally knows about Kuttralam, falls which is a renowned tourist place. He has also been appointed as a contractor to collect tolls for vehicles entering the tourist spot.

4. The third respondent had called for a bid on 09.06.2019 for granting of license to collect entry fees for vehicles visiting the Old Kuttralam and also for leasing the road side shops. The petitioner had participated in the said bid. He was also the successful bidder for collecting entry and parking fees for vehicles visiting Old Kuttralam. These facts may not be directly relevant to the issues in the writ petition but are stated to only point out that the petitioner is not a novice and is not a stranger but rather a resident of the very same area and also knows about the concept of putting to auction bids for collecting vehicle fees for those vehicles which enter Kuttralam. It is stated that on the last occasion on 20.06.2019, the bid amount which the petitioner had quoted was Rs.45,90,000/-. This fact is also mentioned only to point that the petitioner is also aware of the huge vehicle movement that enters Kuttralam during the seasons and that he was ready to bid for such a bid amount, nearly half a crore and therefore, once again it has to be reiterated that the petitioner's pleadings of innocence cannot be taken at its face value.

5. The respondent had issued a tender notification on 23.06.2020 inviting bids for granting license for collecting entry fee from the visitors entering the tourist spot. The petitioner filed W.P.(MD) No.7280 of 2020 questioning the tender notification. That writ petition was dismissed and the observations of the learned single Judge are quite pertinent and quite strongly worded. The learned single Judge had stated as follows:-

"5. This Court cannot interfere with the decision taken by the respondents to go for a fresh auction in order to grant license for collection of entry fees for vehicles. The petitioner is bound by the terms and conditions of the tender notification. At the best, the petitioner can participate in the tender called for by the third respondent and the petitioner, cannot as a matter of legal right seek for any extension of license period. The mere fact that the petitioner has sustained loss due to the lock down, by itself will not be a ground for this Court to give a direction to extend the license period. These are administrative decisions which cannot be interfered by Courts in exercise of its jurisdiction under Article 226 of the



6. In the result, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are dismissed."

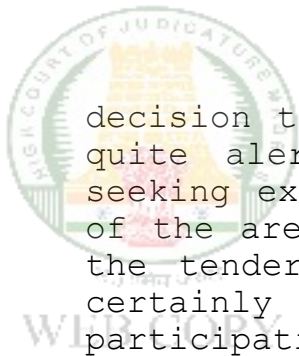
6. The learned single Judge had stated that the petitioner is bound by the terms and conditions of the tender notification. Learned single Judge had also stated that the petitioner must only participate in a tender called by the third respondent but cannot seek any extension of the lease period. The learned Single Judge had also observed that the fact that the petitioner has suffered loss due to the lockdown cannot be a ground for the Court to give a direction to extend the license period. Learned single Judge has further stated that administrative decisions cannot be interfered by Courts in exercise of jurisdiction under Article 226 of the Constitution of India. Finally, learned Single Judge felt that it was only appropriate that the writ petition should be dismissed.

7. Thereafter, the notification now impugned had been again issued by the respondent. Petitioner first claimed that a copy of the notification was sent to him by post and pointed out the acknowledgment card signifying his receipt of the notification and stated that very short time was given to him. But as a matter of fact, to the extent possible to which I could read the Tamil Nadu Transparency in Tender's Act, 1998, there is no obligation on the tender inviting authority to issue personal notices to anybody. If it is done so, it would only indicate that the tender inviting authority has some special concern and regard to person to whom such personal notification was issued.

8. The petitioner being a recipient of a personal notification to participate, therefore, cannot now turn around and say that the respondents are working against him and also cannot impute allegations against the respondents. He had personally received the notice. A duty was cast on him to ensure that he could participate in the auction.

9. Petitioner then questions the tender notification on an other ground pointing out the dates on which the newspaper publication was issued and stated that the notification was dated 17.12.2021 and the newspaper publication was on 20.12.2021. But the petitioner in the same breathe has also admitted that he has been served with a personal notice for the auction. Then need not worry about the public notice. The general public can raise that issue if they so intend.

10. The petitioner having received a private notice and a personal notice to participate in the auction, should necessarily participate in the auction based on such notification. He cannot claim knowledge only on the basis of paper publication or on the public notice affixed by the respondents. At any rate, petitioner cannot disclaim total lack of knowledge about the



decision taken by the respondents to call for auction. He has been quite alert on the earlier occasion by filing a writ petition seeking extension of lease period. That was rejected. Any resident of the area well aware about the profitability of participating in the tender, and in being selected as the highest bidder, would certainly aware about the decision taken to issue notification for participation for the tender.

11. The petitioner is only questioning the notification issued in a roundabout manner. His earlier writ petition having failed he now questions the notification issued on minor grounds of dates on which the notification was issued, the dates on which the paper publication was issued and the manner in which the public notice was affixed.

12. Petitioner also raises a further ground by pointing out the period for the auction, which is from 01.07.2021 to 30.06.2022. It is complained that the minimum period should be for one year and the maximum period should be for three years.

13. This again, as the learned Single Judge pointed out in the earlier writ petition, is an administrative decision and this Court, as opined by the learned Single Judge, should be quite cautious in interfering with such decisions under Article 226 of the Constitution of India.

14. The petitioner is not personally prejudiced. He is aware of the decision taken to auction the rights to collect fees for the vehicles which enter Old Kutralam. The only option available to the petitioner is to either participate or to not participate in the auction. It is again a personal decision which the petitioner will have to take in consultation with his own conscience, with his own friends, with his own family members or with anybody with whom he has business relationships. The choice is entirely the petitioner's.

15. I am not prepared to stall the auction. I could still give an opportunity to the petitioner, if he is willing and if he satisfies the necessary conditions to participate in the auction which is scheduled to be held on 24.12.2021 (tomorrow). This option is always available to the petitioner and it is for the petitioner to take an appropriate decision.

16. The writ petition stands dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

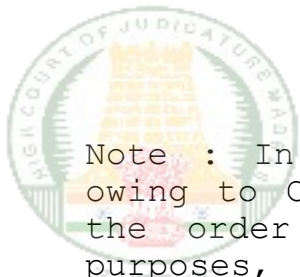
Assistant Registrar (T&P)

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/ /2022

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 District Collector,
Tenkasi District,
Tenkasi.
2. The Additional Director,
Rural Development Department,
Tenkasi,
Tenkasi District.
3. The Block Development Officer,
Tenkasi,
Tenkasi District.

+1 CC to M/s.S.CHELLAPANDIAN, Advocate (SR-40389[F] dated 23/12/2021)

W.P. (MD).No. 23192 of 2021
and
W.M.P. (MD) No. 19625 and 19626 of 2021
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MGJ(04.01.2022) 5P 5C