



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM

THE HONOURABLE Mr. JUSTICE M.GOVINDARAJ

W.P.No.28187 of 2013

and

MP.No.1 of 2013

A.Prabu

...Petitioner

Vs.

1.The Commissioner,
The Gudiyatham Municipality,
Gudiyatham Town,
Vellore District.

2.The Chairman,
The Municipal Counsel,
The Gudiyatham Municipality,
Gudiyatham Town, Vellore District.

...Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records in the impugned proceedings in Na.Ka.No.A1/3488/2012 dated 04.09.2013 of 1st respondent quash the same and consequently directing the 1st respondent to return the EMD amount of Rs.8,00,000/- deposited by the petitioner and lying with the 1st respondent in respect of tender notification dated 21.01.2013.

For Petitioner : Mr.V.M.G.Ramakkannan

For Respondents : Mr.B.S.Sundaramoorthy



O R D E R

Challenging the refusal to refund the Earnest Money Deposit made by the petitioner, he has preferred the above writ petition.

2. The respondents/Municipality quoted a bill for collecting Toll fee from the daily vegetable market. The petitioner submitted his bid for a sum of Rs.56,07,000/-. It was the highest bid submitted by him. However, the elected members of Municipal Council passed a unanimous Resolution, dated 26.02.2013 that the licence shall not be issued to the petitioner and on the other hand, it shall be given to the next highest bidder, by name S.Senthilvelan. The Resolution No.375 dated 26.02.2013, was accepted and bid of the petitioner was cancelled. After having given the bid to one Senthilvelan, it appears that the first respondent directed the petitioner to prove his financial solvency to deposit 50% of the bid amount i.e., Rs.28,00,000/- within 24 hours by the proceedings No.Na.Ka.A1/3488/2012, dated 26.03.2013. It was also informed to the petitioner that if he fails to deposit 50% of the bid amount within 24 hours and the Earnest Money Deposit made by him to the tune of Rs.4,00,000/- would also be forfeited. Hence, the deposit was made for auction totalling a sum of Rs.8,30,010/-.

3. From the materials placed before this Court, it is to be noted that the first respondent had already accepted the unanimous Resolution by the second respondent and rejected the bid submitted by the petitioner. Thereafter, the second bidder/Senthilvelan was allotted the licence for a lesser amount. After having allotted the bid to some other person, the respondents have no authority to test the financial stability of the writ petitioner. Once the bid is rejected, it is automatic to refund the Earnest Money Deposit as well as the caution deposit deposited by the petitioner.

4. The respondents attempted to forfeit, the same and such exercise would amount to arbitrary exercise of power. The rejection of bid is not for any breach of terms and conditions to the petitioner, but an offshoot of unanimous Resolution passed by the council, which itself is contrary to the provisions of The Tamil Nadu Transparency in Tenders Act, 1998, as well as causes stigma on the petitioner. Besides this, forfeiture of caution deposit as well as Earnest Money Deposit will amount to mala-fide exercise of power and the impugned proceedings are arbitrary under the provisions of the said Act.



5. In view of the above, this writ petition is allowed and the impugned order is set aside. The respondents are directed to refund the amount within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Commissioner,
The Gudiyatham Municipality,
Gudiyatham Town,
Vellore District.

2.The Chairman,
The Municipal Council,
The Gudiyatham Municipality,
Gudiyatham Town, Vellore District.

+1 CC to Mr.V.M.G.Ramakkannan, Advocate sr 17318

+1 CC to Mr.B.S.Sundaramoorthy, Advocate sr 17659.

W.P.No.28187 of 2013
and MP.No.1 of 2013

JPL (CO)
SP(09/06/2022)