



WEB COPY



Cont.Pet.No.1536 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Cont.Pet.No.1536 of 2022

M/s.Mar Basil Constructions,
Civil Contractors,
Ayyankolly, Munnanadu (PO),
Pandalur (TK), The Nilgris – 643 239
Rep. by its Managing Partner
James V.Joseph.

...Petitioner

Vs.

1.Mr.Mohammed Haris
Municipal Commissioner,
Nellialam Municipality,
Nellialam,
Pandalur,
The Nilgris – 643 233.

2.Mr.Parthasarathi,
Municipal Engineer,
Nellialam Municipality,
Nellialam,
Pandalur,
The Nilgris – 643 233.



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3.Mrs.Revikala,
Municipal Oversear,
Nellialam Municipality,
Nellialam, Pandalur,
The Nilgris – 643 233.

..Respondents

PRAYER : Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondents for contempt of the Court under Section 11 of the Contempt of Court Act, 1971 (Act 70 of 1971) for their wilful disobedience of the order dated 21.01.2022 and made in W.P.No.724 of 2022.

For Petitioner : Mr.B.Ramamoorthy

For Respondents : Mrs.M.Sneha

ORDER

This contempt petition has been filed against the order dated 21.01.2022 passed in W.P.No.724 of 2022, to punish the respondents for their willful disobedience of the order passed by this Court.

2.This Court passed an order as follows:



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4. Pursuant to the Notification, four contractors submitted their respective applications and all the applications rejected by the respondents on various grounds and in respect of the case of the petitioner Clause-VII of the conditions was invoked and therefore this Court is of the opinion that the petitioner may be permitted to participate in the Tender process if any to be notified in view of the fact that the application of all the four contractors were rejected. The rights of the petitioner is not prejudiced in view of the fact that the work was not allotted in favour of any person and the respondents are yet to take a decision for issuing a fresh Notification inviting applications. When the rights are not infringed and based on certain deficiencies the applications were rejected and the Tender process itself is closed, it is desirable that the authorities take a fresh decision for issuing a fresh Notification and only then the petitioner also may be permitted to participate in the Tender. process by submitting their application.

5. This being the facts and circumstances, this Court is not inclined to go into the details regarding the deficiencies identified by the authorities, in view of the fact that none of the contractors were selected and the Tender was automatically expired. Thus, the respondents are bound to take a fresh decision



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for issuing Notification and in such event the a petitioner also may be permitted to participate in the Tender Process.

6. With these observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

3. The learned counsel for the petitioner mainly contended that the order was passed based on the submission made by the learned Special Government Pleader that all the tender applications were rejected. Therefore, this Court directed the authorities to take a fresh decision for issuing a notification and granted liberty to the writ petitioner to participate in the tender process which is to be notified.

4. Contrary to the said order, the learned Standing Counsel made a submission in Paragraph No.5 and 6 of their affidavit which reads as under:

5. It is respectfully submitted that, Nelliyalam Municipality by letter dated 26.11.2021 to the Tender Bulletin authority had requested to publish tender notice in one English and Tamil daily for KNMT Kalaignar Urban Development Scheme 2021-2022.



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Pursuant to which the tender notifications was published on 01.12.2021. The last date for submission of tender was 08.12.2021 till 3.00 p.m. and the opening of tender was at 3.30 p.m. on 08.12.2021.

6. It is respectfully submitted that, the petitioner company, one M/s. Rayin Constructions Company Pvt. Ltd, one ThiruP.Rayin and one Thiru.P.P.Yacob had made their bids. The bids of the Petitioner and ThiruP.P.Yacob were rejected for the reasons stated in the notice dated 17.12.2021 in Na.Ka.No:2085/2021/E1 and the contract with respect to both the Packages were given to one Mr.Rayin based on financial bid on 31.12.2021 and agreement entered on the same day. As per the contract the said Mr.Rayin had completed the work on 01.03.2022 and first payment has also been made to him on 16.06.2022.

5. There was a miscommunication between the Department and the learned Special Government Pleader during the relevant point of time which resulted in making certain submissions which provided cause for filing contempt petition. The hearing of the writ petition was done through video



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conferencing and at that point of time, the complete facts were not made available. When it was brought to the notice of this Court that the applications of all the contractors were rejected then, this Court directed for issuing a fresh notification. However, after filing of contempt petition, it is brought to the notice of this Court that the contract was allotted in favour of one contractor who in turn completed the road project and the road is in usage and the rejection of tender was in respect of other contractors. That being the factum, now brought to the notice of this Court, no further adjudication needs to be undertaken in respect of contempt petition, since the tender was finalized and contract was awarded in favour of a contractor who in turn completed the project there is no further ground to adjudicate the contempt petition and accordingly, this contempt petition is closed.

26.10.2022

Internet : Yes

Index : Yes

Speaking order/Non-Speaking Order

ssr

To



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Nellialam, Pandalur,
The Nilgris – 643 233.
- 2.The Municipal Engineer,
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Nellialam, Pandalur,
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S.M.SUBRAMANIAM, J.

SSR

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