



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.20662 of 2021

K.Gopalakrishnan

...Petitioner

vs.

1. The Union of India,
represented by its Chief Secretary
to Government of Pondicherry,
Chief Secretariat,
Pondicherry.
2. The Secretary to Government,
Transport Department,
Government of Puducherry,
Puducherry.
3. The Transport Commissioner,
Office of the Transport Commissioner,
Transport Department,
100 Feet Road, Mudaliarpeth,
Puducherry - 605 004.
4. The Tender Evaluation Committee,
The Chamber of the Transport Commissioner,
Transport Department,
Mudaliarpeth,
Puducherry.
5. M/s.PRR Travels,
PRR Illam,
No.280, N Block, 26th Street,
Anna Nagar East,
Chennai 600 102.
6. M/s.Rainbow Travels,
No.500, Bharathi Street,
Puducherry - 605 001.



7. M/s.Sri Gokul Travels,
No.62/3, Puthu Mariamman Koil Street,
Ellaipillaichavadi,
Puducherry - 605 005.

8. R.Sundaramurthy (Individual Bidder) ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings passed by the 4th Respondent Committee, dated 17.09.2021, disqualifying the bid of the Petitioner, M/s.Shree Saara Tourisme, Puducherry and quash the same, and further direct the 4th Respondent Committee to evaluate the bid of the Petitioner M/s.Shree Saara Tourisme, Puducherry, for financial bid along with Respondents 5 to 8.

For Petitioner :Mr.B.Balavijayan

For Respondents 1 to 4 :Mrs.N.Mala,
Government Pleader (Pondy)

For 6th Respondent :M/s.V.Kamala

O R D E R

Petitioner has come up with this Writ Petition challenging the impugned proceedings dated 17.09.2021 passed by the 4th Respondent Committee, thereby, disqualifying their bid in the name of M/s.Shree Saara Tourisme, Puducherry and for a further direction to the 4th Respondent Committee to evaluate their bid along with the bids of Respondents 5 to 8.

2.It is stated by the Petitioner that, he is a tourist vehicle operator in the State of Puducherry, running business in the name of Shree Saara Tourisme, since 2001. According to the Petitioner, he has been a successful bidder in the tenders called for by the Government of Puducherry and has earned good reputation. Also, the Petitioner is the Secretary of Pondicherry Travel Owners Welfare Association. On 04.08.2021, the 3rd Respondent called for a notice inviting e-tender for Hiring Staff Car Service in a two bid system viz. Technical Bid (for qualification) and financial bid for Hiring of Staff Car (Motor Cabs) to utilize them in the Departments/PSUs/Autonomous Institutions/Agencies, etc. of the Government of Puducherry for a period of two years in Puducherry and Karaikal regions.



3.As per the terms and conditions of the tender notice dated 04.08.2021, the Petitioner made an Application for the same along with the sworn-in-affidavit as per clause 3(e) of the tender Notice that, he was not convicted for any criminal proceedings in any Courts of Indian Sovereign except a case entry made with Orleanpet Police Station for an agitation organized by Travel Operators to withdraw road tax during August 2020. On 26.08.2021, the 6th Respondent, who is also a bidder, made a complaint against the Petitioner referring to clause 3(e) of the Notification and further referring to the agitation that took place on 05.11.2020, for which, an F.I.R. vide Crime No.220 of 2020 was registered by Orleanpet Police Station, Puducherry, for the alleged offence under Sections 143, 341, 270, 188, 283, 506(i) and under Section 51(b) of the Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897 r/w 149 I.P.C. According to the Petitioner, on 05.11.2020, aggrieved by the levy of road tax during the pandemic period, a protest was carried out by Puducherry Travel Owners Welfare Association in a very simple manner.

4.The grievance of the Petitioner is that, the 4th Respondent Committee, in a meeting convened on 17.09.2021, referring to the case in Crime No.220 of 2020 registered against him and with reference to clause 3(e) of the Tender Notification, disqualified the Petitioner's bid. Aggrieved by the same, the Petitioner is before this Court by way of the present Writ Petition.

5.Learned counsel for the Petitioner submitted that, the Petitioner is not a history-sheet holder having criminal background for heinous crimes and that, he is only alleged to have participated in a protest for which an F.I.R. vide Crime No.220 of 2020 was registered against him. Further, he has filed a sworn-in-Affidavit as per clause 3(e) of the Tender Notice, wherein, he has stated that a case entry was made with Orleanpet Police Station for an agitation organized by travel operators to withdraw road tax, during August 2020. Hence, according to the learned counsel, when the Petitioner has not suppressed any detail, the impugned order is liable to be set aside.

6.Mrs.N.Mala, learned Government Pleader (Pondy) submitted that, the Petitioner was involved in a case attracting Indian Penal Code, Disaster Management Act, 2005 and Epidemic Diseases Act and as per the report of the Police Station concerned, it is against the eligibility criteria fixed for bidders vide clause 3(e) of the Tender Notice dated 04.08.2021 and hence, the



Petitioner's bid was rejected. Learned Government Pleader (Pondy), with reference to the Affidavit filed by the 3rd Respondent, went on to state that, as per the F.I.R., during the agitation, the Petitioner along with others gathered and obstructed the operation of stage carriers in the entrance of new Bus Stand and threatened the drivers of private buses stating that, if they run the buses, they will break the glasses of buses. Further, they blocked the roads hindering the movement of vehicles and general public and that, the act of the Petitioner shows his attitude against the Government.

7. Learned counsel appearing for the 6th Respondent submitted that, the 6th Respondent has no criminal background and he has satisfied the norms stipulated in the tender notice dated 04.08.2021, whereas, the Petitioner has criminal background and a case was registered against him by Orleanpet Police Station, Puducherry for the alleged offences under Section 143, 341, 270, 188, 283 and 506(i) I.P.C.; Section 51(b) of the Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897 r/w 149 I.P.C. Hence, he prayed for dismissal of the Writ Petition.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. Admittedly, the Petitioner, while submitting his Application as per the terms and conditions of the Tender Notice dated 04.08.2021, has filed a sworn-in-affidavit by stating that, he was not convicted for any criminal proceedings of Indian Sovereign except a case entry made with Orleanpet Police Station for an agitation organized by Travel Operators to withdraw road tax during August 2020. But, an F.I.R. was registered against the Petitioner in Crime No.220 of 2020 by Orleanpet Police Station, Puducherry for the offences attracting Indian Penal Code, Disaster Management Act, 2005 and Epidemic Diseases Act. Taking into account the pendency of a criminal case against the Petitioner, the Tender Evaluation Committee rejected his bid. Whereas, there are no criminal proceedings pending against the 6th Respondent and hence, the Committee has chosen the 6th Respondent as a successful bidder.

10. Undoubtedly, the 4th Respondent/Tender Evaluation Committee has the discretion to choose the successful bidder and the Petitioner's bid has been rejected only on account of pendency of a criminal case against him. While so, the 6th Respondent has been chosen as the successful bidder, as they have satisfied the terms and conditions of the Tender



Notification dated 04.08.2021. Hence, this Court finds no reason to interfere with the impugned proceedings dated 17.09.2021 passed by the 4th Respondent Committee.

Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected W.M.P.Nos.21928, 21930 and 21931 of 2021 are closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To:

1. The Chief Secretary
to Government of Pondicherry,
Union of India,
Chief Secretariat,
Pondicherry.
2. The Secretary to Government,
Transport Department,
Government of Puducherry,
Puducherry.
3. The Transport Commissioner,
Office of the Transport Commissioner,
Transport Department,
100 Feet Road, Mudaliarpet,
Puducherry - 605 004.
4. The Tender Evaluation Committee,
The Chamber of the Transport Commissioner,
Transport Department,
Mudaliarpet,
Puducherry.

+1cc to M/s.B.Balavijayan, Advocate Sr.6792
+1cc to the Government Pleader Sr.6620

W.P.No.20662 of 2021

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