



W.P.Nos.31020 and 32936 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P. Nos.31020 and 32936 of 2022
and W.M.P.Nos.30427, 30428, 32329, 32330 of 2022

Sivaraj

... Petitioner in both W.P.'s

Vs.

1. The District Collector,
Coimbatore District,
Coimbatore.

2. The Commissioner,
Coimbatore Corporation,
Coimbatore.

3. The Assistant Commissioner,
Coimbatore Corporation,
Coimbatore.

...Respondents in both W.P.'s

PRAYER in W.P.No.31020 of 2022: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent in Na.Ka.No.328/2021/A1(M) dated 25.08.2022 quash the same and further direct the respondents to permit the petitioner to run the shops as per communication dated 28.07.2021.



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PRAYER in W.P.No.32936 of 2022: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned undated tender notification in Na.Ka.No.2277/2020/MA1 by the second respondent for e-auction for the year 2022-2023---2024-2025 for the platform shop Nos.27, 34 and 78 in New Modern Flower Market quash the same and further direct the respondents to handover the said shops to the petitioner.

For Petitioner : Mr.Labrar Md Abdullah
(Both W.P's)

For Respondent 1 : Mr.K.M.D.Muhilan
(Both W.P's) Additional Government Pleader

For Respondents 2&3 : Mr.N.Umapathi
(Both W.P's)

COMMON ORDER

The writ petition in W.P.No.32936 of 2022 is filed challenging the undated tender notification of the second respondent in respect of the three shops in New Hi-tech Flower Market, Coimbatore without following the provisions of the Tamil Nadu Transparency in Tenders Act, 1998.



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2. The Writ Petition in W.P.No.31020 of 2022 is filed challenging the proceedings of the third respondent in Na.Ka.No.328/2021/A1(M) dated 25.08.2022 in and by which, the license granted in favour of the petitioner has been cancelled and further, to direct the respondents to permit the petitioner to run the shops as per the communication dated 28.07.2021.

3. The case of the writ petitioner is that the petitioner and other persons were running platform shops at Pannerselvam Flower Market, Mettupalayam Road, Coimbatore and there were about 144 shops in the said market. The petitioner was allotted five shops by way of an order passed by the second respondent dated 05.03.2012 and the said shops numbers were C-24, C-26, C-27, D-30 and D-32, with certain conditions, for a period of three years and the same was periodically renewed. Due to pandemic, the said market was closed and all the dealers were permitted to operate in Devangar School Ground by the second respondent. Therefore, he was temporarily allotted three shop, namely Shop Nos.78, 34 and 27 by order dated 28.07.2021. By communication dated 10.03.2022, he was required to pay arrears of Rs.4,49,550/-, including penalty, within seven days. Subsequently, by letter



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dated 29.03.2022, demand draft sent was returned with calculation of alleged arrears. Later on, by proceedings dated 25.08.2022, the license granted to him was cancelled. Further, the respondent corporation has called for notification. Hence, the present writ petitions are filed challenging the proceedings cancelling the license and the notification

4. The learned counsel for the petitioner would submit that the petitioner may be permitted to participate in the tender and the entire tender process may be video-graphed.

5. The learned standing counsel for the respondents would submit that new tender will be called and entire process would be conducted in a transparent manner and it would be video-graphed. The only condition for the petitioner to participate in the tender, is that he has to deposit a sum of Rs. 8,48,181/- towards arrears of rent, including interest.

6. The learned counsel for the petitioner would submit that as per the calculation, the petitioner forwarded the demand drafts for a total sum of



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Rs.23,220/- towards arrears of rent in D.D.Nos.851639, 851679, 851714 and the same were returned to the petitioner vide letter NO ROC.328/2021/A1 dated 30.03.2022 stating that as per the new system, separate demand draft is required for rent, interest and GST. Thereafter, the petitioner forwarded a demand draft for Rs.1,50,000/- stating that the amount paid for the present and future dues. Due to the new system procedures, the said demand draft was not realised so far.

7. The respondent has not disputed the receipt of demand draft. However, it is stated that the demand draft has not been encashed and the same will be returned to the petitioner and if the petitioner clears the entire arrears of rent, he will be permitted to participate in the fresh tender. It is also stated that the notification has already expired and the date fixed for tender also expired and therefore, fresh tender has to be called for. The learned counsel for the respondent corporation also submitted that the fresh tender will be received in three modes, namely in sealed cover, through E-Tender and Personal Tender.



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8. In the view of the above, this Court is of the opinion that the respondent corporation shall call for a new tender as per the Tamil Nadu Tender Transparency Act. While inviting fresh tender, due publication should be issued in widely circulated dailies both in English and vernacular language. The petitioner shall pay the arrears of rent, within two weeks to the respondent corporation. On such payment, the petitioner is entitled to participate in the tender. The tender process should be conducted in transparent manner and the entire process should be video graphed by the respondent corporation so that no malpractice as alleged by the petitioner will take place.

9. With these observations, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.12.2022

Index :Yes/No
Internet:Yes/No
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To

WEB COPY

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N. SATHISH KUMAR, J.

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