



W.P(MD)No.4852 of 2013

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4852 of 2013

P.Ravi

... Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Madurai.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondent made in Ma.Va.3/000073/2013, dated 25.03.2013 and quash the same and consequently direct the respondent to extend the benefits of G.O.Ms.No. 78 Municipal Administration and Water Supply Department, dated 25.05.2009.

For Petitioner : M/s.K.Govindarajan
For Respondent : M/s.S.Devasena



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ORDER

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The present Writ Petition has been filed challenging an order passed by the respondent herein, under which, they have demanded an enhanced upset price for a tender that was floated in June 2012.

2. According to the learned Counsel for the petitioner, a tender notification was issued in the newspaper in May 2012, calling for a tender cum public auction for collecting parking charges for two wheelers in Maatuthavani Market. As per the said advertisement, upset price was fixed at Rs.16,02,980/-. The petitioner had quoted Rs.19,50,000/- and he was declared as the highest bidder. By an order, dated 25.06.2012, the license was granted to the writ petitioner, after confirming the said auction. The tenure of the said auction was to expire on 31.03.2013. Six days before the expiry of the said tender period, the order impugned in the writ petition was passed by the respondent herein, directing the petitioner to deposit a further sum of Rs.4,45,575/-, on the ground that the upset price was erroneously fixed in June 2012. This order is under challenge in the present writ petition.



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3. The learned Counsel for the petitioner has contended that, the respondent, issued a paper publication fixing the upset price as Rs.16,02,980/- and based upon the said upset price, the petitioner has participated and deposited a sum of Rs.19,50,000/-. The said amount was also accepted by the respondent Corporation and they have confirmed the auction in favour of the writ petitioner. Thereafter, at the fag end of the license period, this impugned order has been passed on the ground, some audit objection has been raised. Hence, the order impugned in the writ petition is not legally sustainable.

4. Per contra, the learned Standing Counsel for the respondent Corporation had contended that correct upset price is Rs.23,95,575/-. However, erroneously the upset price was fixed at Rs.16,02,980/-. This was found out in the audit objection and hence, the petitioner was directed to deposit the balance amount of Rs.4,45,575/-. She further contended that in view of the interim orders passed by this Court, the petitioner is enjoying the said license period even after 31.03.2013. Hence, she prayed for dismissal of the writ petition.



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5. I have carefully considered the submissions made on either side.

6. A perusal of the advertisement made by the respondent Corporation would clearly indicate that the upset price was fixed at Rs.16,02,980/-. The petitioner has quoted Rs.19,50,000/- and the tender was confirmed in favour of the writ petitioner. After a period of nine months, the present impugned order has been passed as if the upset price has been fixed erroneously in the month of June 2012. An upset price has been fixed by way of an advertisement, thereafter, auction was confirmed in favour of the writ petitioner for depositing the said amount. Thereafter, the respondent authorities cannot fix any higher amount by way of the impugned order.

7. In view of the above said facts, the impugned order suffers from illegality and the same is set aside. However, the respondent authorities are at liberty to initiate any proceedings for the period subsequent to 31.03.2013.



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8. This Court by way of an interim order, dated 28.03.2013, has directed the petitioner to deposit a sum of Rs.3,00,000/-. According to the learned Counsel for the petitioner, he had deposited the said amount within the time frame fixed by this Court and hence, he prayed for refund of the said amount. However, the learned Standing Counsel for the respondent Corporation submits that the petitioner had sought extension beyond 31.03.2013 and his extension was granted only based upon the said amount of Rs.3,00,000/- deposited by the writ petitioner. Hence, the said amount cannot be refunded. Verification of the records indicate that the petitioner was granted extension in 2013-2014 on payment of the full amount, without adjusting the deposit of Rs.3,00,000/-. Hence, the said Rs.3,00,000/- has been kept in the suspense account of the respondent Corporation.

9. The writ petition stands allowed. The respondent Corporation is directed to refund the said Rs.3,00,000/- on or before 31.12.2022. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes / No
btr

To

The Commissioner,
Madurai Corporation,
Madurai.



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R.VIJAYAKUMAR, J.

btr

Order made in
W.P(MD)No.4852 of 2013

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