



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.2762 of 2022

and

W.M.P. (MD) .Nos.2442 and 2443 of 2022

N.Saravanan

... Petitioner

Vs.

1.The District Collector,
Tiruchirapalli.

2.The General Manager,
Tiruchirapalli District Co-operative
Milk Producers Union Limited,
Tiruchirapalli.

3.The Deputy General Manager,
Tiruchirapalli District Co-operative
Milk Producers Union Limited,
Tiruchirapalli.

...Respondents

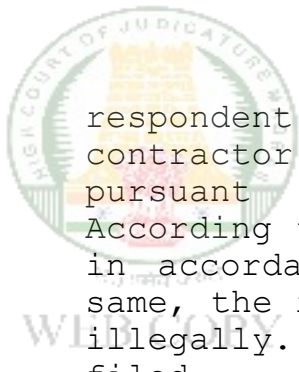
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the second respondent in Na.Ka.No.18645/P&I/2021 dated 02.02.2022 and quash the same as illegal and consequently directing the respondents to permit the petitioner's vehicle bearing Registration No.TN 22 BH 3966 for transportation of milk as per the proceedings of the second respondent dated 18.01.2021 till the completion of the tender period i.e., 31.12.2022.

For Petitioner	:	M/s.Shiva Shankari
For R-1	:	Mr.M.Lingadurai, Special Government Pleader.
For R-2 and R-3	:	Mr.P.Tilak kumar, Government Pleader.

ORDER

This Writ Petition has been filed challenging the show cause notice dated 02.02.2022 issued by the second respondent.

2. As per the show cause notice, the second respondent has threatened the petitioner that his contract with the second

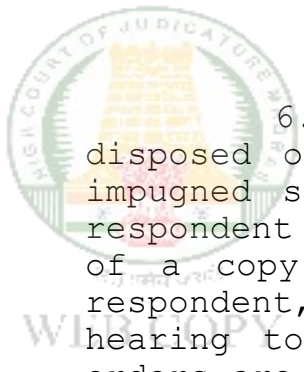


respondent will be terminated. The petitioner is a transport contractor for the second respondent and was awarded a contract pursuant to an auction conducted by the second respondent. According to the petitioner, he has acted as a transport contractor in accordance with the terms of the contract. But, despite the same, the impugned show cause notice has been issued arbitrarily and illegally. In such circumstances, this Writ Petition has been filed.

3. It is settled law that a show cause notice can be challenged only if it has been issued without authority under law or without jurisdiction. In the case on hand, admittedly, there is a contract between the petitioner and the second respondent and under the said contract, the second respondent is empowered to terminate the contract for certain reasons. Under the impugned show cause notice dated 02.02.2022, no time limit has been given for the petitioner to send his reply to the same. Admittedly, the petitioner also has not sent any reply to the impugned show cause notice dated 02.02.2022. Only if the petitioner sends a reply, the second respondent can consider the same on merits and in accordance with law and thereafter, decide as to whether the contract with the petitioner will have to be terminated or not. Since the petitioner has not sent any reply, this Court, at this stage, cannot entertain this Writ Petition seeking for quashing of the impugned show cause notice dated 02.02.2022.

4. However, this Court is of the considered view that the petitioner must be permitted to send a reply to the impugned show cause notice dated 02.02.2022 and on receipt of the said reply, the second respondent will have to consider the same on merits and in accordance with law and only thereafter, decide as to whether the petitioner's contract can be terminated or not. The period of the contract between the petitioner and the second respondent expires on 31.12.2022. The petitioner must be certainly given an opportunity to give his explanation to the show cause notice dated 02.02.2022 by the second respondent which is the subject matter of challenge in this Writ Petition. Till final orders are passed after the petitioner gives his explanation to the show cause notice dated 02.02.2022, the petitioner's contract with the second respondent cannot be terminated by the second respondent.

5. A categorical stand has been taken by the petitioner that he has been adhering to the terms and conditions of the contract with the second respondent and he has not committed any violation. This being the case, his interest over the contract will have to be protected at least till the second respondent takes a final decision on the show cause notice dated 02.02.2022 on receipt of the explanation to be submitted by the petitioner to the same pursuant to the directions given by this Court today.



6. For the foregoing reasons, this Writ Petition is disposed of by permitting the petitioner to send a reply to the impugned show cause notice dated 02.02.2022 issued by the second respondent within a period of one (1) week from the date of receipt of a copy of this order. On receipt of the same, the second respondent, after holding an enquiry and after affording a personal hearing to the petitioner, shall pass final orders. Till final orders are passed, it is made clear that the second respondent shall not terminate the contract of the petitioner. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Tiruchirapalli.

2.The General Manager,
Tiruchirapalli District Co-operative
Milk Producers Union Limited,
Tiruchirapalli.

3.The Deputy General Manager,
Tiruchirapalli District Co-operative
Milk Producers Union Limited,
Tiruchirapalli.

+1 CC to M/s.K.R.SHIVA SHANKARI, Advocate (SR-5629[F]
dated 11/02/2022)

+1 CC to M/s.SPL.GP (SR-5672[F] dated 11/02/2022)

W.P. (MD) .No.2762 of 2022

10.02.2022

KS (CO)

GC(28.02.2022) 3P 6C

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