



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.5068 of 2022

and

W.M.P. (MD)Nos.4133 and 4134 of 2022

WEB COPY

Kaliakkavilai Thinasari Santhai Viyabarigal
Nala Sangam, represented by its Secretary,
S.Sunil, Kanyakumari District. ... Petitioner

vs.

- 1.The Government of Tamil Nadu
represented by its Secretary to Government,
Municipal Administration and Water
Supply Department, St. George Fort,
Chennai-600 009.
- 2.The District Collector,
Kanyakumari District, Nagercoil.
- 3.The Assistant Director of Town Panchayat,
Office of Assistant Director of Town Panchayat,
Collectorate, Nagercoil, Kanyakumari District.
- 4.The President,
Kaliakkavilai Town Panchayat,
Kaliakkavilai, Kanyakumari District.
- 5.The Executive Officer
Kaliakkavilai Town Panchayat,
Kaliakkavilai, Kanyakumari District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned auction cum tender notification issued by the fifth respondent in Na.Ka.No.104/2022/A1 dated 11.03.2022 published in Thina Thanthi Daily News Paper on 15.03.2022 and quash the same and consequently, to direct the fifth respondent to issue fresh auction cum tender by reducing the earnest money deposit and entry fees in respect of Kaliakkavilai Vegetable and Fish Market.



For Petitioner :Mr.N.Mohideen Basha
For R1 to R3 :Mr.B.Saravanan
Additional Government Pleader
For R4 and R5 :Mrs.D.Farjana Ghoushia
Special Government Pleader

O R D E R

This Writ Petition has been filed challenging the impugned auction-cum-tender notification, dated 11.03.2022 issued by the fifth respondent, which was published in the newspaper on 15.03.2022.

2.The petitioner has challenged the impugned auction-cum-tender notification, dated 11.03.2022, on the following grounds:

(a)the impugned auction-cum-tender notification, is in violation of Rule 20(2) of the Tamil Nadu Transparency in Tenders Rules, 2000, which stipulates minimum 15 days period for submission of the tender from the date of publication of the notification. In the instant case, only 10 days time has been provided in the auction-cum-tender notification.

(b)The earnest money deposit stipulated in the impugned auction-cum-tender notification is highly excessive and arbitrary.

3.As per the impugned auction-cum-tender notification, which is dated 11.03.2022, any bidder will have to submit his tender on or before 25.03.2022. Rule 20 of the Tamil Nadu Transparency in Tenders Rules, 2000, stipulates a minimum time that has to be given to the prospective bidders in submission of the tender. Rule 20 of the aforementioned Rules reads as follows:

"20.Minimum time for submission of tenders.-

(1) The Tender Inviting Authority shall ensure that adequate time is provided for the submission of tenders and a minimum time is allowed between date of publication of the Notice Inviting Tenders in the relevant Tender Bulletin or in the newspapers whichever is later and the last date for submission of tenders. This minimum period shall be as follows.-

(a) for tenders upto rupees two crores in value, fifteen days; and

(b) for tenders in excess of rupees two crores in value, thirty days.

(2) Any reduction in the time stipulated as per sub-rule (1) has to be specifically authorized by an authority superior to the Tender Inviting Authority for reasons to be recorded in writing."



4. In the case on hand, as rightly contended by the petitioner, the minimum period of 15 days from the date of publication of the auction-cum-tender notification has not been granted to the prospective bidders to submit the bid. But instead only ten days time has been granted from the date of publication. The auction-cum-tender notification, which was published only on 15.03.2022 in the newspaper. Therefore, it is very clear that Rule 20 of the aforementioned Rules has been violated by the respondents.

5. In similar circumstances, this Court had an occasion to decide this issue and by order, dated 05.11.2020, passed in W.P.(MD) Nos.15537 and 15327 of 2020, the auction notification impugned in those Writ Petitions was quashed on the ground that minimum prescribed period of fifteen days was not granted to the prospective bidders as per Rule 20 of the aforementioned rules.

6. Since Rule 20 of the aforementioned Rules has been violated, the impugned auction notification has to be quashed and the Writ Petition has to be allowed. Insofar as the second contention raised by the learned Counsel for the petitioner with regard to the non adherence to the Rule 14 of the aforementioned Rules is concerned, there is no necessity for this Court to adjudicate on the said issue. However, it is made clear that the respondents will have to adhere to the procedure contemplated under the provisions of Tamil Nadu Transparency in Tenders Act, 1998, and its rules, whenever they conduct a fresh auction.

7. For the foregoing reasons, the impugned auction-cum-tender notification, dated 11.03.2022 published in the newspapers on 15.03.2022 is hereby quashed and the Writ Petition is disposed of. The respondents shall adhere to the Tamil Nadu Transparency in Tenders Act, 1998, and its rules, whenever in the near future, they conduct auction in respect of the subject vegetable and fishing market, which is involved in this Writ Petition. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
The Government Of Tamil Nadu,
Municipal Administration and Water
Supply Department, St. George Fort,
Chennai-600 009.

2.The District Collector,
Kanyakumari District, Nagercoil.

3.The Assistant Director of Town Panchayat,
Office of Assistant Director of Town Panchayat,
Collectorate, Nagercoil, Kanyakumari District.

+1 CC to M/s.SPL GP (SR-13840,SR-13935[F] dated 23/03/2022)

W.P. (MD)No.5068 of 2022
22.03.2022

RD(08.04.2022) 4P 5C