



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2022

CORAM :

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

W.P (MD) No.10746 of 2022

and

W.M.P. (MD) Nos.7755 & 7756 of 2022

Thamaraipoo Thannarva Paniyalar Sangam,
Mahathanapuram Rep by its President,
Smt.S.Vanaja

... Petitioner

vs.

1.The District Collector,
Kanyakumari District,
Office at Ramavarmapuram,
Nagercoil,
Kanyakumari District.

2.The Assistant Director of Town Panchayath,
Collectorate Campus,
Nagercoil,
Kanyakumari District.

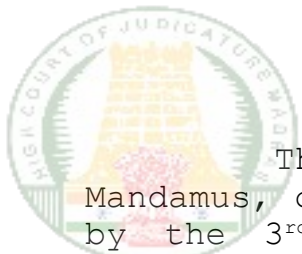
3.The Executive Officer,
Kottaram Ist Grade Town Panchayat,
Kottaram, Kanyakumari District.

4.The Chairman,
Kottaram Ist Grade Town Panchayat,
Kottaram, 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 pertaining to the tender notification issued by the 3rd respondent herein in Na.Ka.No.100/2022/A1 dated 16.05.2022 and quash the same as illegal and further direct the respondents herein to permit the petitioner to collecting and disposing of garbage and waste from the Kottaram Ist Grade Panchayath for the financial year from 01.04.2022 to 31.03.2023.

For Petitioner	: Mr.K.P.Krishnadoss
For R1 & R2	: Mr.K.Balasubramani Special Government Pleader
For R3 & R4	: Mr.A.Kannan Additional Government Pleader

**ORDER**

The petitioner herein seeks a Writ of Certiorarified Mandamus, challenging the legality of the tender notification issued by the 3rd respondent dated 16.05.2022, calling for tender for implementation of solid waste management at Kottaram Ist Grade Town Panchayat, Kottaram, Kanyakumari District.

2. It is alleged in the writ petition that the 3rd respondent arbitrarily had called for tender for disposal of garbage and waste in the panchayat area contrary to the provisions of the Tamil Nadu Transparency in Tenders Rules, 2000. Further, it is claimed that the petitioner's Sangam working for the benefit of the public with meagre salary, had executed the solid waste management of the Town Panchayat successfully during the pandemic period and had been appreciated by the public for their service. While so, imposing onerous conditions and in violation of the Tamil Nadu Transparency in Tenders Rules, 2000, the impugned tender notification dated 16.05.2022 was issued by the 3rd respondent and the same was published in a less known Daily Newspaper known as, ''Maduraimani'' not widely circulated in the locality of Kottaram Ist Grade Town Panchayat situated in Kanyakumari District. It is also claimed that the tender condition that the bidder should have three years previous experience with annual turnover of more than 50 lakhs is an onerous condition incorporated to exclude the self-help groups like the petitioner's Sangam.

3. The learned Additional Government Pleader appearing for the respondents 3 and 4 submits that the tender conditions are in consonance with the general principle and policy adopted throughout the State. For the convenience of one of the participants, the tender conditions cannot be relaxed and furthermore, regarding the minimum time for submission of tenders, the learned Additional Government Pleader would submit that the tender notification was published in the Tender Bulletin on 16.05.2022 and the last date for submitting the tender was fixed on 30.05.2022 till 05.00 p.m. Pursuant to the tender notification, tenders were received and successful bidder has already been identified and finalised. Therefore, the writ petition is not only devoid of merits, but also infructuous.

4. Rule 20 of the Tamil Nadu Transparency in Tenders Rules, 2000, prescribes minimum time for submission of tenders which reads as under:-

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.''

5. Though it is submitted by the learned Additional Government Pleader that the tender notification was published in the Tender Bulletin on 16.05.2022, it is an admitted fact that the paper publication in Maduraimani was effected only on 26.05.2022. While Rule 20 prescribes minimum period of 15 days for tenders upto Rs.2 Crores in value, the newspaper publication effected on 26.05.2022 does not comply the said condition. The said Rule gives an option to the Tender Inviting Authority to make a publication in the Tender Bulletin or in the Newspaper, whichever is later should be the date for reckoning the minimum period for submission of tender. Any reduction in time stipulated as per the sub-rule (1) has to be specifically authorised by an authority superior to the Tender Inviting Authority for reasons to be recorded in writing.

6. As far as the present case is concerned, the Executive Officer of Kottaram Ist Grade Town Panchayat is the Tender Inviting Authority. The value of the tender fixed is 68.50 Lakhs. There is no document to show that the authority superior to the Tender Inviting Authority has reduced the time prescribed for the reasons recorded. Therefore, for the singular reason that the tender notification does not satisfy mandatory condition imposed under Rule 20 of the Tamil Nadu Transparency in Tenders Rules, 2000, the tender notification of the 3rd respondent dated 16.05.2022 is hereby quashed with liberty to the 3rd respondent herein to issue a fresh tender notification in compliance with Rule 20 of the Tamil Nadu Transparency in Tenders Rules, 2000, and other rules and it is always open to the 3rd respondent to fix appropriate other conditions which will ensure an uninterrupted execution of the work namely, disposal of solid waste in the 3rd respondent Town Panchayat.

7. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Vacation Officer

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

bala/smn2



To

- 1.The District Collector,
Kanyakumari District,
Office at Ramavarmapuram,
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- 2.The Assistant Director of Town Panchayath,
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- 3.The Executive Officer,
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Kottaram, Kanyakumari District.
- 4.The Chairman,
Kottaram Ist Grade Town Panchayat,
Kottaram, Kanyakumari District.

+1 CC to M/s.K.P. KRISHNA DOSS, Advocate (SR-24234[F] dated 02/06/2022)

+1 CC to M/s.SPL.GP (SR-24248[F] & SR-24260[F] dated 02/06/2022)
W.P (MD)No.10746 of 2022
DATED : 01.06.2022

MGJ(09.06.2022) 4P 7C