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W.P.No.1541 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.1541 of 2023

and

W.M.P.No.1629 & 1630 of 2023

M/s.Nehru Market Viyabarigal Sangam
Bearing Registration No.182/1995
Rep. by its President
A.M.Chellappa,
Nehru market,
Karaikal-609 602.

...Petitioner

Vs.

1.Union Territory of Puducherry,
Represented by its Secretary,
Local Administration Department,
Government of Puducherry,
Secretariat,
Puducherry.

2.The Commissioner,
Karaikal Municipality,
Karaikal,
Puducherry-609 603

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
for issuance of a Writ of Certiorarified Mandamus, calling for the records of



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the E-auction notice issued by the 2nd respondent herein in its proceedings in No.51-1/KM/REV/2022-23 dated 23.12.2022 and quash the same and consequently direct the 2nd respondent herein to allot remaining shops of 117 shops mandated to be allotted to the members of the petitioner association pursuant to the proceedings of the 1st respondent department dated 30.09.2020.

For Petitioner : Mr.D.Ravichander

For Respondents : Mr.M.Nirmal Kumar
Government Advocate (Puducherry)

ORDER

The writ petitioner has come up with this writ petition challenging the E-auction notice issued by the 2nd respondent dated 23.12.2022. E-auction applications are invited for giving licence to 49 shops out of 133 shops available in the newly constructed Nehru Market.

2.The petitioner is an association of occupants of shops in Old Nehru Market before demolition. It is the case of the petitioner that when the members of the petitioner association vacated the old market place to enable construction of a new market were promised that after re-construction, all the



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occupants would be allotted shops in the newly constructed market. It is also stated that the petitioner association members were in occupation of 117 shops in the old Nehru Market before demolition. Now, violating the promise made to the petitioner's association, the 2nd respondent is proceeding with auction of 49 shops out of 133 newly constructed shops. If the auction is allowed to go on for 49 shops and allotted to third parties, the rights of the members of the petitioner association would get affected.

3. The learned counsel for the petitioner mainly submitted that at the time of vacating the members of the petitioner association, a promise was made by the respondents to accommodate them in a newly constructed market complex. Now, the impugned E-auction notice issued by the 2nd respondent, proposing to allot 49 shops out of 133 shops to third parties would amount to violation of the promise made by the respondents. Therefore, the learned counsel submitted that the impugned e-auction notice is liable to be set aside.

4. The learned counsel also brought to the attention of this Court, the communication sent by the Deputy Director of Local Administration



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Department, Government of Puducherry dated 30.09.2020, wherein, it was mentioned that allotment of 117 shops in the new complex to the existing 117 shopkeepers, who occupied the old complex cannot be termed as a new allotment. Therefore, the Government Order prescribing one shop for one person is not applicable to the present case.

5. Mr.M.Nirmal Kumar, learned Government Advocate (Puducherry) for the respondents submits that earlier 117 shops were occupied by 75 persons. Relying on G.O.Ms.No.230/1993/LAS dated 27.01.1993, he submitted that only one shop can be allotted to one person. In other words, a person is not entitled to get more than one shop in the market complex. In the case on hand, 75 members of the petitioner association seek allotment of 117 shops and the same cannot be considered. The learned Government Advocate further submitted that after keeping 75 shops for allotment to the individual members of the petitioner association at the rate of one shop for one person, the remaining 49 shops are proposed to be e-auctioned by the impugned notice. Therefore, 2nd respondent is justified in issuing auction notice.



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6. As far as the contention made by the learned counsel for the petitioner by relying on the communication dated 30.09.2020, by the Deputy Director of Department of Local Administration, Government of Puducherry is concerned, the same is only an inter departmental communication and the same is not an order. Therefore, the petitioner is not entitled to rely on the same.

7. In the counter affidavit filed by the 2nd respondent, it is stated that out of 117 shops, over which the petitioner association has claim in the old market complex, 41 shops were held by 41 licencees (1 shop each), 56 shops were held by 28 licencees (2 shops each), 12 shops were held by 4 licencees(3 shops each) and 8 shops were held by 2 licencees(4 shops each).

8. The Government Order in G.O.Ms.No.230/1993/LAS dated 27.01.1993 which reads as follows:-

(vi) A licensee will be disqualified to apply for a licence or to hold a licence if he is already holding licence of a stall/shop in the same or another Municipality or Commune Panchayat”.



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9. As per the Government Order referred above, each person is entitled to only one shop. The Government property must be let out by following transparent procedure and by giving equal opportunity to all the persons. In the case on hand, 75 members of the petitioner association who occupied 117 shops in the earlier old market complex were promised one shop for one person, by taking into consideration the equity. The 2nd respondent proposed to get along with the auction of remaining 49 shops by following transparent procedure. Merely because earlier some members of the petitioner association were allowed to occupy more than one shop, which is against the Government Order referred above, the petitioner cannot claim any vested right or equity. Therefore, the petitioner has not made out any case for interfering with the impugned e-auction notice issued by the 2nd respondent.

10. It is needless to say that 2nd respondent shall take immediate steps for issuing allotment orders in respect of 75 shops which are reserved for allotment to the individual members of the association who occupied the shop in the old market complex.



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11. In view of the above, this writ petition stands dismissed.

Consequently, the connected miscellaneous petitions are closed. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
nr

To

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Government of Puducherry,
Secretariat,
Puducherry.

2.The Commissioner,
Karaikal Municipality,
Karaikal,
Puducherry-609 603



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S.SOUNTHAR, J.

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