



W.A.No.488 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE  
AND  
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.A.No.488 of 2022

K.Gopalakrishnan

.. Appellant

Vs.

1. The Union of India  
Rep. by its Chief Secretary to Government  
of Pondicherry  
Chief Secretariat  
Pondicherry.
2. The Secretary to Government  
Transport Department  
Government of Puducherry  
Puducherry.
3. The Transport Commissioner  
Office of the Transport Commissioner  
Transport Department  
100 Feet Road  
Mudaliarpet  
Puducherry 605 004.



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4. The Tender Evaluation Committee  
The Chamber of the Transport Commissioner  
Transport Department  
Mudaliarpet  
Puducherry.

5. M/s. PRR Travels  
PRR Illam, No.280, N.Block  
26<sup>th</sup> Street, Anna Nagar East  
Chennai 102.

6. M/s. Rainbow Travels  
No.500, Bharathi Street  
Puducherry 605 001.

7. M/s. Sri Gokul Travels  
No.62/3, Puthu Mariamman Koil Street  
Ellaipillaichavadi  
Puducherry 605 005.

8. R.Sundaramurthy .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 01.02.2022 made in W.P.No.20662 of 2021.

For the Appellant : Mr.B.Balavijayan

For the Respondents : Mr.S.Raveekumar  
Government Pleader (Puducherry)  
for Respondents 1 to 3

Mr.V.Kamala Kumar  
for Respondent-6



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JUDGMENT  
(Delivered by the Hon'ble Chief Justice)

We have heard Mr.B.Balavijayan, learned counsel for the appellant, Mr.S.Raveekumar, learned Government Pleader (Puducherry) for the respondents 1 to 3 and Mr.V.Kamalakumar, learned counsel for the sixth respondent.

2. The appellant had filed a writ petition against the rejection of the technical bid of the appellant.

3. The e-tender notice was issued for hiring of vehicles for the use of government departments. The appellant had also bid in the said tender process. The technical bid of the appellant is rejected. Aggrieved thereby, the appellant filed a writ petition before the learned Single Judge of this Court bearing W.P.No.20662 of 2021. The said writ petition was rejected by the learned Single Judge.

4. Learned counsel for the appellant strenuously contends that



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pendency of an FIR against the appellant would not be a ground to disqualify the bid of the appellant. Pendency of a criminal case in itself would not be sufficient to imply that the appellant possesses a criminal background. The appellant was never blacklisted. The appellant's financial bid was the lowest. As such, the appellant's financial bid ought to have been directed to be opened.

5. According to learned counsel for the appellant, the learned Single Judge ought to have considered the matter in its correct perspective. The appellant was never convicted for any offence. The FIR lodged against the appellant was in respect of the agitation organised by the travel operators to show resentment to the road tax during August 2020. However, the offence was registered attracting the provisions of Indian Penal Code, Disaster Management Act and Epidemic Diseases Act. In fact, the appellant was bona fide agitating with regard to the road tax in a peaceful manner. By no stretch, the said act could be construed as the appellant possessing a criminal background.



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6. It is not disputed that the tender has already been allotted to the sixth respondent. It appears that FIR was lodged against the appellant under the provisions of the Indian Penal Code, Disaster Management Act and Epidemic Diseases Act. It is submitted that subsequently, the said FIR is also quashed.

7. We could have considered the contention of the appellant had the appellant challenged the said clause of the tender before participating in the tender process. Once having participated in the tender process, it is not open for the appellant to assail the said term of tender.

8. The matter is of a contractual nature. The principal has to be given some leverage with regard to the terms of the tender. The principal is the best judge of the terms and conditions to be applied.

9. However, as, according to the appellant, FIR has been



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quashed now, for further tenders, it cannot be construed that the appellant has a criminal background.

10. With the aforesaid observation, the writ appeal is disposed of. There will be no order as to costs. Consequently, C.M.P.Nos.3523 & 3524 of 2023 are closed.

(S.V.G., CJ.)

(P.D.A., J.)  
12.09.2023

Index : Yes/No  
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE  
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