IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.7670 of 2023

Muruganandham .. Petitioner

Vs

1 The Managing Director
Tamil Nadu State Transport Corporation
Ramakrishna Road, Salem - 636 007.

2 The Principal Accountant General (Audit)
Lekha Pariksha Bhavan
No.361, Anna Salai, Teynampet
Chennai- 600 018.

3 The Additional Superintendent of Police
Vigilance and Anti Corruption Department
Cherry Road, Salem - 636 007.

4 The Director
Vigilance and Anti Corruption Department
No.293, MKN Road, Alandur
Chennai - 600 016. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing respondents 3 and 4 to take necessary action against respondents 1 and 2 in accordance with law based on petitioner's representation dated 10.10.2022.

For the Petitioner	:	Mr.B.Manimaran
For the Respondents	:	Mr.P.Muthukumar State Government Pleader assisted by Mr.K.Raja, Standing Counsel for 1st respondent
	:	Mr.P.Muthukumar State Government Pleader for respondents 2 to 4

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

Muruganandham, son of Palaniappan, a resident of No.14/1, 1st Cross Street, Anna Salai, Chinnathirupathi, Salem-8, has filed this writ petition for issuance of a writ of mandamus directing respondents 3 and 4, the Additional Superintendent of Police, Vigilance and Anti-Corruption, Salem and the Director, Vigilance and Anti-Corruption Department, Chennai, to take necessary action against respondents 1 and 2, the Managing Director, Tamilnadu State Transport Corporation, Salem and the Principal Accountant General (Audit), Chennai, based on the petitioner's representation dated 10.10.2022.

2. Learned counsel for the petitioner submitted that the first respondent, which is a State Transport Corporation operating approximately 1000 buses in Salem region, is floating tenders for displaying advertisements in their buses. While awarding tenders to the successful bidders, the first respondent is collecting a huge amount under the head RTO fees. It is alleged that, on receipt of the said fees, the first respondent, which is supposed to remit the same in the appropriate account, has failed to remit the RTO fees so collected from the year 2017 to 2021. As a result, a sum of Rs.8,19,000/- has been misappropriated.

3. Learned counsel for the petitioner would submit that the non-remittance of the RTO fees was also confirmed by some of the Regional Transport Officers. When the second respondent is doing auditing of the first respondent, the said authority has also failed to look into the same. Therefore, an action should be initiated against respondents 1 and 2, he pleaded.

4. It is seen that the first respondent, which is operating

approximately 1000 buses in five Districts, namely Salem, Namakkal, Krishnagiri, Erode and Dharmapuri, while floating tenders for displaying advertisements in their buses, is collecting lakhs of rupees towards security deposit, fixed deposit, licence fee and RTO fees. While so, the grievance of the petitioner is that the first respondent is not depositing the RTO fees into the appropriate account.

5. The first grievance expressed by the petitioner is qua non-deposit of the RTO fees by the first respondent. It is not in dispute that the RTO fees is a statutory prescription collected by the first respondent. Once the said fees is paid based on a statutory prescription, it is the second respondent, the Principal Accountant General (Audit), who has to audit the said receipt of money. If the amount paid by the successful tenderers is not deposited, the second respondent is always at liberty to raise audit objection. This court need not delve into the deposit of such statutory demand and it lies in the realm of the second respondent.

6. The next grievance raised by the petitioner is that some of the RTOs have made statements that there was non-payment of RTO fees

collected by the first respondent from the successful tenderers. The petitioner, in support of the said submission, produced certain information received under the provisions of the Right to Information Act. The RTO fees would have been definitely received by way of cash or cheque or demand draft, with proper acknowledgment in the name of the first respondent/Corporation. Therefore, the allegation that there was misappropriation by the first respondent cannot be entertained. Therefore, finding no merit or justification whatsoever, this Court is not inclined to entertain the present writ petition at the hands of the petitioner. If the successful bidders having paid the RTO fees make a complaint saying that the RTO fees collected from them has not been deposited by the first respondent, then we can find reason for entertaining the cause.

6. For all the reasons stated above, the writ petition fails and the same is dismissed. There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
14.03.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

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THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(bbr)

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