



W.P.Nos.7663, 7665 & 7667 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2023

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The Honourable **DR.JUSTICE ANITA SUMANTH**

Writ Petition Nos.7663, 7665 & 7667 of 2023
and

W.M.P.Nos.7821, 7823, 7827, 7831, 7835 & 7837 of 2023

W.P.No.7663 of 2023

M/s.Sree Balaji Transport, Unit I,
Tiruvallur District East,
Rep. by its Partner, B.Vijayanand,
S/o. Pon Mani Baskaran,
No.5, Solai Krishnan Street,
Janaki Nagar, Valasaravakkam,
Chennai 600 087.

..... Petitioner

-Versus-

- 1.The State of Tamil Nadu,
Rep. By The Managing Director,
TASMAC Ltd.,
CMDA Tower, 4th Floor, Emgore,
Chennai.
- 2.The Senior Regional Manager,
TASMAC Ltd., Chennai Region,
No.735, Anna Salai, LLA Building, 4th Floor,
Chennai 600002.
- 3.The District Manager,
TASMAC Ltd., Unit- I,
Bangalore High Road,
Chembarambakkam Village,
Tiruvallur District East-600123.

.... Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus quashing the Tender Notification in Na.Ka.No.A3/97/2023 dated 07.02.2023 and Online Tender Document issued by the 2nd respondent and to direct the respondents to extend existing lease granted in favour of the petitioner for another term as he has invested huge sum of money and engaged several employees.

W.P.No.7665 of 2023

M/s.Sree Balaji Transport, Unit I,
Tiruvallur District East,
Rep. by its Partner,
B.Vijayanand,
S/o. Pon Mani Baskaran,
No.5, Solai Krishnan Street,
Janaki Nagar,
Valasaravakkam,
Chennai 600 087.

..... Petitioner

-Versus-

1.The State of Tamil Nadu,
Rep. By The Managing Director,
TASMAC Ltd.,
CMDA Tower,
4th Floor, Emgore,
Chennai.

2.The Senior Regional Manager,
TASMAC Ltd., Chennai Region,
No.735, Anna Salai,
LLA Building, 4th Floor,
Chennai 600002.



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3.The District Manager,
TASMAC Ltd., Unit- II,
Bangalore High Road,
Chembarambakkam Village,
Tiruvallur District East-600123.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus quashing the Tender Notification in Na.Ka.No.A3/97/2023 dated 07.02.2023 and Online Tender Document issued by the 2nd respondent and to direct the respondents to extend existing lease granted in favour of the petitioner for another term as he has invested huge sum of money and engaged several employees.

W.P.No.7667 of 2023

M/s.Sree Gokul Transport,
Rep. by its Proprietor,
B.Muthulakshmi,
W/o Pon Mani Baskaran,
Plot No.110, Door No.5,
Solai Krishnan Street,
Janaki Nagar, Valasaravakkam,
Chennai 600 087.

..... Petitioner

-Versus-

1.The State of Tamil Nadu,
Rep. By The Managing Director,
TASMAC Ltd., CMDA Tower,
4th Floor, Egmore, Chennai.



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2.The Senior Regional Manager,
TASMAC Ltd., Chennai Region,
No.735, Anna Salai,
LLA Building, 4th Floor,
Chennai 600002.

3.The District Manager,
TASMAC Ltd.,
Kancheepuram North District.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus quashing the Tender Notification in Na.Ka.No.A3/97/2023 dated 07.02.2023 and Online Tender Document issued by the 2nd respondent and to direct the respondents to extend existing lease granted in favour of the petitioner for another term as she has invested huge sum of money and engaged several employees.

For Petitioner(s) : Mr.R.Singaravelan,
Senior Counsel for
Ms.V.Ambika in all WPs

For Respondents : Mr.J.Ravindran,
Addl. Advocate General
Assisted by
Mr.K.Sathish Kumar,
Standing Counsel for
respondents in all WPs



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5. *The third argument relates to the requirement that the transport contractor should deposit the RC book of the lorries/mini lorries in original to the District Manager, TASMAC, Thiruvallur (East) till termination of the contract.*

6. *Clause 10(i) of the tender document reads thus: The transport contractor should deposit the R.C. Book of the Lorries/Mini Lorries in original to the District Manager, TASMAC, Thiruvallur (East) till termination of his contract. The same can be taken back by him on written request for payment of Tax and renewal of Insurance. However, the R.C. books to be returned to the District Manager's office immediately on completion of the specific work.*

7. *The only difficulty that is expressed by the petitioners is that in case where financial assistance has been obtained for purchase of the vehicles, there may be a requirement for the applicant to deposit the R.C.Book with the financial institution.*

8. *However, this point may well be academic, since at paragraph 10 of the affidavit filed in support of the Writ Petitions, the petitioners state that 'Most of the Contractors got loans from the Banks or Private finances under hypothecations who will not be able to surrender the R.C.Books of the respective lorries'.*

9. *They have not averred that the R.C.Books relating to the vehicles that they propose to use are in the possession of the banks or private financiers under hypothecation.*

10. *Mr.Singaravelan would, on instructions*



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from the learned counsel on record for the petitioners, maintain that this is the actual position in these cases and undertakes to file affidavits accompanied by a corroboration from the concerned financier by 13.03.2023.

11. There are allegations made in regard to amounts due to the petitioners from the respondents and my attention is drawn to some orders passed in this regard. I make it clear that I am not, in these Writ Petitions, concerned with any of those submissions and restrict myself only to the point relating to the deposit of R.C.Books alone.

12. To be noted, that the date of Notification is 07.02.2023. These Writ Petitions have been instituted only on 08.03.2023 when the petitioners are fully aware that the date of opening of tenders is 10.03.2023. Thus, it is made clear that this order would not stand in the way of the respondents proceeding with the tender as proposed.

13. List on 13.03.2023 at the end of admission list.

2. There are three writ petitions filed by three applicants in response to a tender floated by the TASMACH for transport contract. Pursuant to order dated 10.03.2023, additional affidavits have been filed by the petitioners expressing their difficulties in complying with the conditions relating to the deposit of RC Book in original to the District Manager of TASMACH. This is pursuant to clause 10(i) of the Tender



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Document that has been extracted in order dated 10.03.2023 as above.

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3. To be noted that in the affidavit filed in support of the writ petitions, para 10 which deals with this specific grievance concludes with the statement '*this condition enumerated in new tender form is not easily adoptable and unrealistic*'. This portrays the impression that this was a new condition not forming part of earlier tenders.

4. However, this condition has figured in the earlier tenders as well as may be seen from the tender document dated 22.02.2021 for the earlier period wherein also this condition figures. Seeing as these very petitioners have participated in earlier tenders, been successful and have been awarded tenders by TASMAL, they are estopped from raising this plea now and I find no reason to intervene on this score.

5. Moreover, the additional affidavits filed and the accompanying compilation of documents reveal that the finance has been extended by private parties and not nationalised banks or Institutional lenders. This Court thus, is disinclined to deal with private transactions particularly, in view of the fact that the tender condition has itself withstood the test of time.

6. If at all the difficulties persist and the conclusion in the tender is



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adverse to it, the petitioners are always at liberty to seek the remedy of appeal mechanism under Section 11 of the Tamil Nadu Transparency in Tenders Act, 1998.

7. In the light of the discussion above, these writ petitions are dismissed with no orders as to costs. Consequently, connected miscellaneous petitions are dismissed.

14..03..2023

Index : yes / no
Neutral Citation : yes / no
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To

- 1.The Managing Director, TASMAL Ltd., CMDA Tower, 4th Floor, Emgore, Chennai.
- 2.The Senior Regional Manager, TASMAL Ltd., Chennai Region, No.735, Anna Salai, LLA Building, 4th Floor, Chennai 600002.
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DR. ANITA SUMANTH.J.,

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