



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.10672 of 2023

Nal Aram Sei Foundation,
Rep. by its Secretary,
Mr.S.Sudhakar,
S/o.K.Shanmugam
No.3/33A, Bharathiyar Street,
Mallasamuthiram,
Namakkal District – 637 503.

Petitioner

VS.

1.The Secretary to Government,
Municipal and Administration Department,
Fort St. George, Chennai – 600 009.

2.The Commissioner,
Municipal Administration,
11th Floor, Urban Administrative Building,
No.75, Santhome High Road,
M.R.C. Nagar, Raja Annamalaipuram,
Chennai – 600 028.

3.The District Collector,
Namakkal District, Namakkal.

4.The Revenue Divisional Officer,
Thiruchengode, Namakkal District.

5.The Tahsildar,
Thiruchengode Taluk, Thiruchengode,
Namakkal District.



6. The Executive Officer,
Mallasamuthiram Special Grade Town Panchayat,
Mallasamuthiram, Namakkal District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 6th respondents to consider the petitioner Foundation Trust representations dated 06.11.2020 and 10.03.2023 thereby granting permission for maintaining the Gasifer Crematorium in Mallasamuthiram Town Panchayat, Namakkal District – 637 503, on the basis of allotment of Contract awarded under 6th respondent's proceedings vide Na.Ka.No.82/2018/A1 dated 23.03.2018.

For Petitioner : Mr.S.L.Sundarsanam

For Respondents : Mrs.Mythreye Chandr
Special Government Pleader
for R1 to R5

Mr.V.Prashanth Kiran
Government Advocate for R6

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the 6th respondent to consider the representations made by the petitioner on 06.11.2020 and 10.03.2023, wherein, the petitioner has sought for extension of his contract in order to maintain the crematorium on the basis of the contract that was awarded in favour of the petitioner through the proceedings of the 6th respondent dated 23.03.2018.



2. Heard Mr.S.L.Sudarsanam, learned counsel appearing on behalf of the petitioner, Mrs.Mythreye Chandru, learned Special Government Pleader appearing on behalf of the respondents 1 to 5 and Mr.V.Prashanth Kiran, learned Government Advocate appearing on behalf of the 6th respondent.

3.The learned counsel for the petitioner submitted that the proceedings dated 23.03.2018 clearly provided for extension of the contract under Clause 12 of the contract and hence, the petitioner had made a representation to the respondent seeking for extension and since the same was not considered, the present writ petition has been filed before this Court.

4.Per contra, the learned Special Government Pleader appearing on behalf of the respondents 1 to 5 submitted that the contract that was awarded in favour of the petitioner through the earlier proceedings dated 23.03.2018 became a subject matter of challenge in W.P.No.10874 of 2021. When this writ petition came up for final hearing on 16.02.2023, the notice of this Court was drawn to the fact that the period of contract has already come to an end and that steps are being taken for inviting new tender to maintain the crematorium. The learned Special Government Pleader specifically relied upon the following observations made in the order and they are extracted hereunder:



2.Learned counsel appearing for the 7th respondent submitted that the period of contract awarded to him is already over and the same has not been extended to the 7th respondent

3.Learned Additional Advocate General also submits that the period is already over, now the respondents are inviting new tender for maintenance of gasified crematorium in Mallasamuthiram village, Namakkal district.

4.Such view of the matter, when the allotment period itself is over, it is for the 6th respondent to invite tender as per law and award contract to the successful bidder as per law.

5.It is also to be noted that the petitioner has filed another writ petition wherein their main grievance is that due to gasified crematorium run by the 7th respondent, their right to bury dead bodies in the place earmarked is disturbed.

6.Recording the statement made by the learned Additional Advocate General and the learned counsel appearing for the 7th respondent stating that the contract period is already over, now the respondents are inviting new tender for maintenance of gasified crematorium in Mallasamuthiram village, Namakkal district, the writ petition stand dismissed as infructuous. No costs. Connected miscellaneous petition is closed.



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5. In the considered view of this Court, the petitioner can seek for the issue of writ of mandamus only if the petitioner is able to establish that they have a legal right and the respondents have a corresponding legal duty. In the absence of the same, the Court cannot issue a writ of mandamus.

6. The petitioner was given the contract for a period of three years to maintain the crematorium and admittedly, the same came to an end in the year 2020 itself. Even thereafter, the petitioner has been permitted to maintain the crematorium probably due to the intervention of the pandemic. The petitioner was the 7th respondent in the earlier writ petition and the petitioner himself has stated before the Court that the period of contract awarded to them has already come to an end and the same has not been extended by the 6th respondent. This Court also recorded the fact that the respondents are in the process of inviting new tender for the maintenance of the crematorium. In such a view of the matter, there is no scope for directing the respondents to consider the representations made by the petitioner at this length of time. The learned Special Government Pleader submitted that the last date for the submission of the application to participate in the tender is on 12.04.2023. In view of the same, it is left open to the petitioner to submit their application and participate



in the process of tender. Except giving this clarity, no further orders can be passed in this writ petition.

7. Accordingly, this writ petition stands disposed of. No Costs.

10.04.2023

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

To

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N. ANAND VENKATESH, J.

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