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W.P.Nos.19849, 19854, 20112, 20123 & 20126 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.07.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P Nos.19849, 19854, 20112, 20123 & 20126 of 2023
and W.M.P.Nos.19191, 19192, 19193, 19196, 19197, 19198, 19452, 19453,
19454, 19460, 19463, 19465, 19470, 19471, 19473 of 2023

R.Subramani	...Petitioner in W.P.Nos.19849 & 20126 of 2023
Muniappan	...Petitioner in W.P.Nos.19854 & 20112 of 2023
Fayaz Abdulsattar	...Petitioner in W.P.No.20123 of 2023
Vs.	

Krishnagiri Municipality,
Rep by its Municipal Commissioner
Office of the Commissioner,
Krishnagiri District,
Tamil Nadu – 635 001.

..Respondent in all W.P.'s

PRAYER in W.P.No.19849 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Respondent pertaining to proceedings bearing Na.Ka.No.1200/2021/A2 dated 30.01.2023 and quash the same and consequently direct the Respondent to forthwith refund to the petitioner the Earnest Money Deposit of Rs.35,00,000/- paid by the Petitioner to the Respondent pursuant to Tender notification dated 15.09.2022 issued by the



W.P.Nos.19849, 19854, 20112, 20123 & 20126 of 2023

respondent within a time frame to be fixed by this Court.

PRAYER in W.P.Nos.19849 & 20112 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Respondent pertaining to proceedings bearing Na.Ka.No.1200/2021/A2 dated 30.01.2023 and quash the same and consequently direct the Respondent to forthwith refund to the petitioner the Earnest Money Deposit of Rs.2,00,000/- paid by the Petitioner to the Respondent pursuant to Tender notification dated 23.08.2022 issued by the respondent within a time frame to be fixed by this Court.

PRAYER in W.P.No.20126 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Respondent pertaining to proceedings bearing Na.Ka.No.1200/2021/A2 dated 30.01.2023 and quash the same and consequently direct the Respondent to forthwith refund to the petitioner the Earnest Money Deposit of Rs.1,50,000/- paid by the Petitioner to the Respondent pursuant to Tender notification dated 15.09.2022 issued by the respondent within a time frame to be fixed by this Court.

PRAYER in W.P.No.20123 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Respondent pertaining to proceedings bearing Na.Ka.No.1200/2021/A2 dated 30.01.2023 and quash the same and



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consequently direct the Respondent to forthwith refund to the petitioner the Earnest Money Deposit of Rs.1,50,000/- paid by the Petitioner to the Respondent pursuant to Tender notification dated 15.09.2022 issued by the respondent within a time frame to be fixed by this Court.

For Petitioners : Mr.J.B.Aadeish
for Mr.Richardson Wilson
(In all W.P.'s)

For Respondent : Mrs.S.Anitha
(In all W.P.'s) Special Government Pleader

COMMON ORDER

The petitioners herein challenging the order passed by the respondent refusing to refund the earnest money deposit made by the petitioners for participating in the tender bid as per the tender notification issued by the respondent municipality.

2. The petitioners are bidders in the tender notification issued by the respondent municipality for various works. It is the case of the petitioners that they deposited earnest money with the respondent municipality as specified in the tender notification. The petitioners are unsuccessful bidders and therefore as per the tender condition, the petitioners are entitled to refund of the earnest



money deposit made by them. When a request is made to the respondent for refund of the earnest money deposit, the same was rejected by the respondent by impugned order. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that when petitioners are unsuccessful in the bid, the respondent is not entitled to retain the said amount and as per the tender condition they have to refund the earnest money deposit.

4. The learned counsel for the respondent submits that as per the tender notification, the earnest money deposit should be made only by the Demand Draft. The petitioners are expected to deposit the Demand Draft and get acknowledgment from the authorized officer of the municipality.

5. In the case on hand, the petitioners without depositing the Demand Draft for the specified value only placed cheques and got acknowledgment from the officials as if they deposited Demand Draft and participated in the auction. It is also stated by the learned Special Government Pleader that the



act of the petitioner would amount to criminal offence. In this regard, disciplinary action has been initiated against the officials of the Municipality.

6. The learned counsel for the respondent also filed a counter to that effect.

7. If the petitioners committed any irregularity while participating in the tender bid by depositing the cheques instead of Demand Draft, it is open to the respondent to take action against the petitioners as well as the erring officials, who permitted the petitioners to participate without deposit of Demand Draft, in accordance with law. However, the fact remains that the face value of the cheque amount has already been deposited into the account of the respondent municipality and hence the respondent is not entitled to retain the amount when petitioners are unsuccessful in the bid. Therefore, petitioners are entitled to refund of the earnest money deposit as prayed for.

8. The writ petition is allowed without prejudice to the right of the respondent corporation to proceed against the petitioners and also officials of



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the respondent municipality in accordance with law in respect of the alleged irregularity mentioned in the counter affidavit of the respondent.

9. The respondent is directed to repay the earnest money deposit made by the petitioners within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

27.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To
Krishnagiri Municipality,
Rep by its Municipal Commissioner
Office of the Commissioner,
Krishnagiri District,
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S.SOUNTHAR, J.

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