



WEB COPY



W.P.No.22259 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.22259 of 2023

and

WMP.Nos.21644, 21646 & 21647 of 2023

Padmapriya Kannadasan

...Petitioner

Vs.

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

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records of the respondents pertaining to the 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 Rs11,00,000/- 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.



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For Petitioner : Mr.Aadeish.J.B
For Mr.Richardson Wilson

For Respondent : Mrs.S.Anitha
Special Government Pleader

ORDER

The petitioner herein filed this Writ Petition challenging the order passed by the respondent rejecting the request of the petitioner seeking refund of Earnest Money deposited by her as a condition for participation in auction conducted by the respondent for maintaining the rest room facilities in Krishnagiri Municipality Bus Stand.

2. According to the petitioner, the respondent issued a tender notification on 23.08.2022 calling for bids for maintaining the rest room facilities in Krishnagiri Bus Stand. As per the tender condition, the petitioner had paid a sum of Rs.11,00,000/- to the respondent by way of cheque No.000001 dated 30.08.2022. The said Earnest Money Deposit, is a precondition for the bidders to participate in the tender.



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3. Now, the petitioner has been declared unsuccessful and therefore, she made a request for refund of the Earnest Money Deposit. The respondent passed the impugned order rejecting the request of the petitioner. Aggrieved by the same, the writ petition has been filed.

4. The learned counsel for the petitioner submitted that once the petitioner is declared as unsuccessful, the respondent has no right to retain the Earnest Money Deposit made by the petitioner.

5. The learned Special Government Pleader appearing for the respondent by taking this Court to the counter affidavit filed by the respondent submitted that as per the tender conditions the bidder is required to deposit the Earnest Money Deposit by way of Demand Draft. In the case on hand, the petitioner instead of depositing the amount by way of Demand Draft, only deposited cheques for the value of Rs.11,00,000/- with the connivance of the officials of the respondent. Now, the respondent initiated disciplinary action against the erring officials of the municipality and therefore, the Earnest Money Deposit paid by the petitioner is liable to be forfeited.



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6. When the petitioner is declared as unsuccessful in the tender auction, the respondent is not entitled to retain the deposit made by the petitioner. Admittedly the petitioner deposited the money by way of cheque and the same has been encashed by the respondent municipality. If the procedure followed by the petitioner is not in accordance with the tender condition, it is always open to the respondent to take appropriate action against the petitioner in accordance with law. However, the respondent is not entitled to retain the deposit made by the petitioner. Therefore, the impugned order is set aside and the respondent is directed to refund the Earnest Money Deposit of Rs.11,00,000/- paid by the petitioner within a period of 8 weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is allowed with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.08.2023

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



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To
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The Municipal Commissioner
Office of the Commissioner
Krishnagiri District
Tamil Nadu 635 001.



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S.SOUNTHAR, J.
dna

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