



W.P.No.23544 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.23544 of 2023
and W.M. P.No.23063 of 2023

- 1.T.Tamilarasu
- 2.S.Amulraj
- 3.K.Sivakumar
- 4.M.Surendera Kumar
- 5.A Iqbal
- 6.K.Madhisudhan
- 7.M.Sivaraj
- 8.K.Mayavan
- 9.M.Kalaivani
- 10.L.Sumathi
- 11.G.Ravichandran
- 12.G.Aruljothi
- 13.A.Annadurai
- 14.A.Perumal
- 15.S.Nagaraj
- 16.A.Madalin Mary
- 17.M.N.Arumugam
- 18.Saranraj
- 19.Kuralarasan
- 20.Gunaseelan
- 21.Prakasam @ Vairamuthu

....Petitioners

Vs.

- 1.The District Collector &
Inspector of Panchayats,
Salem District.



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2.The Commissioner,
Yercaud Panchayat Union,
Yercaud,
Salem District.

3.The Chairman,
Yercaud Panchayat Union,
Yercaud, Salem District

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Na.Ka.No.7927/2022/A7 dated 31.07.2023 and quash the same and consequently direct the respondents to confirm the auction bids dated 16.05.2023 in favour of the petitioners.

For Petitioners : Mr.S.Kamadevan

For Respondents : Mrs.S.Anitha
Special Government Pleader
for R1

Mr.C.Harsha Raj
Additional Government Pleader
for R2 & R3

ORDER

The Writ Petition is filed challenging the order passed by the 1st respondent cancelling the auction conducted on 16.05.2023 for leasing of the shops.



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2. According to the petitioners, the 2nd respondent conducted an auction for leasing of the shops belong to the 3rd respondent on 16.05.2023. The petitioners herein had participated in the auction and came out as successful bidders. Nine of the petitioners already paid the bid amount to the 2nd respondent and in respect of others, the respondent refused to receive the Demand Drafts for depositing the bid amount. In these circumstances, the 2nd respondent passed an order cancelling the auction and aggrieved by the same, the petitioners filed the writ petition in W.P.No.20297 of 2023 questioning his jurisdiction to cancel the auction. The said writ petition was allowed by this Court on the ground that the 2nd respondent has no power to cancel the auction. Thereafter, the 1st respondent passed the impugned order based on the recommendations of the 2nd respondent cancelling the auction that was conducted on 16.05.2023.

3. The learned counsel appearing for the petitioners, by taking this Court to the Rule 18(1)(c) of the Tamil Nadu Panchayats (Procedure For Conducting Public Auction of Lease and Sales in Panchayats) Rules, 2001, submitted that the 1st respondent is empowered to cancel the auction only on the ground of



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proved irregularities in conducting the auction and in the case on hand, the impugned order does not say anything about the proved irregularities. The learned counsel further submitted that before passing the impugned order, the 1st respondent has not afforded the petitioners with any opportunity and he failed to conduct any enquiry regarding the alleged proved irregularities. The learned counsel also submitted that the 2nd respondent, in his counter affidavit, admitted that the 3rd respondent already passed a resolution confirming the auction conducted on 16.05.2023 and the same has not been taken into consideration by the 1st respondent.

4. Mrs.S.Anitha, learned Special Government Pleader appearing for the 1st respondent and Mr.C.Harsh Raj, learned Additional Government Pleader appearing for the respondents 2 & 3, by taking this Court to the counter affidavit filed by the 2nd respondent, submitted that based on the hearsay media report it came to the knowledge of the 2nd respondent that there was formation of syndicate at the time of auction and the same resulted in reduction of bid amount. Therefore, the 2nd respondent decided to cancel the auction. The earlier writ petition in W.P.No.20297 of 2023 filed by the petitioners was allowed by setting aside the order passed by the 2nd respondent. The 2nd respondent



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submitted a report narrating the above mentioned facts to the 1st respondent and based on the report submitted by the 2nd respondent, the 1st respondent passed the impugned order.

5.Rule 18 of Tamil Nadu Panchayats (Procedure For Conducting Public Auction of Lease and Sales in Panchayats) Rules, 2001, reads as follows:-

“18. Circumstances and procedure to conduct re-auction.-

(1) Re-auction of lease may be conducted in the following circumstances: -

(a) When the lease was cancelled due to violation of lease condition by the lessee;

(b) When another person comes forward to bid for higher amount by remitting an amount higher, by one and a half times more than the bid amount;

(c) When the Inspector or any other authority empowered by him cancel the auction on account of proven irregularities committed in the auction held already; and

(d) When the Panchayat itself resolves to conduct re-auction on the ground that the bid amount is too low to be considered as a reasonable bid, compared to the last auction or taking into consideration of the prevailing circumstances.



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(2) In the event of re-auction, the procedure laid down for conducting auction in these rules shall be observed all over again, starting from the issue of re-auction notice onwards. Before commencing re-auction proceedings, a written order cancelling the previous auction, shall be issued by the Executive Authority or the Commissioner or the Secretary, as the case may be, based on the resolution of the Panchayat or the orders of the Inspector.

(3) The Executive Authority or the Commissioner or the Secretary, as the case may be, shall be competent to cancel an auction in the event of a situation specified in clause (b) in sub-rule (1) and issue orders before seeking permission of the Panchayat for conducting a re-auction.

(4) When re-auction is ordered, the publication of a notice in the District Gazette and the newspapers may be dispensed with if the Executive Authority or the Commissioner or the Secretary, as the case may be, considers that the bid amount at the re-auction may not be at a level warranting such publication and accordingly notice for shorter duration may be given.”

6. A perusal of Rule 18(1)(c) of the Tamil Nadu Panchayats (Procedure For Conducting Public Auction of Lease and Sales in Panchayats) Rules, 2001 referred above would suggest that the 1st respondent is empowered to cancel



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the auction on account of proved irregularities at the time of auction. A reading of impugned order would suggest that the 1st respondent proceeded to cancel the auction based on the report submitted by the 2nd respondent. The 1st respondent has not rendered any positive findings regarding proved irregularities in conducting the auction. Further, even assuming there are some materials placed before the 1st respondent regarding proved irregularities, the 1st respondent ought to have issued notice to the petitioners, who are successful bidders and only after giving sufficient opportunity to put forth their case, the 1st respondent should have passed the order cancelling the auction. Therefore, the impugned order has been passed without following the principles of natural justice.

7. In view of the discussions made above, the impugned order passed by the 1st respondent is violation of Rule 18(1)(c) of the Tamil Nadu Panchayats (Procedure For Conducting Public Auction of Lease and Sales in Panchayats) Rules, 2001 and consequently, the same is liable to be set aside.

8. Accordingly, the writ petition stands allowed by setting aside the order impugned and in respect of the allegations regarding irregularities and in



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respect of the confirmation of the auction etc., it is for the respondents to act in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
Neutral Citation Case : Yes/No
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S.SOUNTHAR, J.
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