



W.P.(MD) No.5284 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.5284 of 2020

and

W.M.P.(MD) No.4597 of 2020

K.Vanaja

.. Petitioner

Vs.

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Assistant Director,
Panchayat, Nagercoil,
Kanyakumari District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to take appropriate steps and to publish all the tender floated by them in tender bulletin of Kanyakumari District as well as in any one of the daily news paper having wide circulation in Kanyakumari District by considering petitioner's representation dated 01.02.2020



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For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.A.Sivanupandian
Government Advocate

ORDER

The petitioner seeks for a mandamus to the respondents viz., the District Collector, Kanniyakumari District and the Assistant Director of the Nagercoil Panchayat, Kanyakumari to take steps to publish all the tenders that have been floated in the District of Kanniyakumari by following the procedure contemplated in the Tamil Nadu Transparency in Tenders Act, 1998 (hereinafter referred to as “the Act”).

2. The petitioner, who is running a consultancy service in the name and style of 'Green Dreams India Logistic', has approached this Court with the relief sought for supra.

3. The reason, which has prompted the petitioner to file the instant writ petition, is on account of the fact that without floating the tenders, contracts are being finalised by the respondents



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4. The petitioner would submit that she is engaged in the consultancy work where she employs several persons whom she allots to the Panchayat to collect the solid waste, process the same and segregate it and convert them into manure and other by-products. The petitioner would submit that Kanniyakumari has 55 Panchayats, which is under the control of the respondents. Though these panchayats had permanent work force, they had out sourced the collection of solid wastes to persons hired on contract basis. These persons would collect the solid waste by going from door to door and dispose of the same as per the procedure contemplated. Originally tenders were floated for the said purpose and the publication was made in any one of the newspapers. However, the petitioner would contend that off late, the procedure of tender has been given a total go by and the same has been being flouted. Though tenders were called for the period 2018-19 and 2019-20, in respect of Aralvaimozhi, Alazhiapandiapuram, Mayiladi, Mulagumoodu, Verkilambi, Eraniel and Kallukoodam Panchayats, the work was ultimately awarded to the persons chosen by the Public Relation Officer



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of the District Collector, Kanniyakumari, and the tender for the year 2019-20 has been awarded to one Osai Sutruchulal Mens. The petitioner would submit that they had also written to the respondents and requested the Panchayat to provide them with a tender form to participate in the same. However, without issuing the tender forms to other, the respondents have confirmed the tender for a single group. When questioned as to whether wide publicity has been given for the tender, the Executive Officer of the second respondent informed the petitioner that the publication was issued in one issue of Dina Kural, Dina Suriyan, Madurai Mani and Tamil Sudar newspapers. The petitioner would submit that these papers hardly have a circulation in Kanniyakumari District. The publication was nothing but a farce as it was decided to hand over the tender to persons of their choice. The petitioner would further submit that where the tenders are floated by publication in newspapers having wide circulation, the rate per person per day is lesser than the rate charged by the persons who were selected through illegal means. Therefore, the petitioner has come forward with the present writ petition.



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5. The learned Government Advocate for the respondents would submit that the work was being awarded only after following the procedure and that publications are also being issued in the Dailies as contemplated.

6. Heard the learned counsel on either side.

7. The Tamil Nadu Transparency in Tenders Act, 1998 has been enacted in order to achieve the following objects:

“To provide for transparency in the public procurement and to regulate the procedure in inviting and accepting tenders and matters connected therewith or incidental thereto.”

8. Therefore, it is crystal clear that the Act seeks to put an end to any kind of nepotism or favouritism in the grant of contract by ensuring that more number of persons are invited to submit their quotes thereby giving a greater room for the persons to participate in bids and thereby



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ensure a level playing field with reasonable cost. Most of the Government projects are welfare related projects where the ultimate beneficiary is the general public and it is the taxpayers' money that goes into funding these projects. Therefore, it is mandatory for the authorities have to give wide spread publicity for the works that they intend to undertake and that they award the same to the best contractor.

9. Considering the above, if the case on hand is considered, it is seen that the publication which has been effected has been made in newspapers which hardly have circulation in Kanniyakumari District. Some of them have negligible readership and most of them do not have a wide circulation. Therefore, the participants in these tenders would be very limited. On the contrary, if these tenders were advertised in Dailies having widespread circulation, the response would be better and the same would be in keeping with the provisions of Section 9(3) of the Act.

10. The learned Government Advocate for the respondents, on instructions, would submit that the first respondent is ready to publish all



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the tenders that are floated by them and the bids received by them in the Daily Newspapers having wide circulation in the District of Kanniyakumari.

11. Considering the above submission made by the learned Government Advocate and the facts of the present case, this Writ Petition is disposed of with a direction to the respondents to follow the provisions of the Tamil Nadu Transparency in Tenders Act, 1998 in its letter and spirit and particularly the provisions of Section 9 of the Act. They shall ensure that every tenders floated by them would be published in two popular Tamil Dailies and two popular English Dailies having wide circulation in Kanniyakumari District and not unknown and obscure publication whose viewership is very limited. No costs. Consequently, connected miscellaneous petition is closed.

24.03.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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P.T.ASHA, J.

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To

- 1.The District Collector,
Nagercoil,
Kanyakumari District.
- 2.The Assistant Director,
Panchayat, Nagercoil,
Kanyakumari District.

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