



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 27.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4145 of 2015 AND
M.P.(MD)Nos.1 & 2 of 2015

M/s.Sri Paulthai Lorry Booking Office,
Through its Proprietor G.Jeyasing,
No.290-A/3, Sivanthakulam Road,
Tuticorin – 628 003.

... Petitioner

Vs.

1. The General Manager(TN),
Food Corporation of India,
Regional Office,
No.8, Sathyamoorthy Road,
Chetpet,
Chennai -31.

2. The Area Manager,
Food Corporation of India,
District Office,
No.1, Bharathy Road,
Cuddalore – 607 001.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order of the first respondent vide letter No.S&C/13/2/9/2014/CBU-TVK/CONT dated 09.03.2015 and quash the same and consequently direct the respondents to refund the sum of Rs.5,40,000/- remitted by the petitioner towards Earnest Money Deposit in connection with the tender



relating to the appointment of handling and transport contractor for movement of food grains and allied materials from Chinnababusamudram Goods Shed to FSD, T.V.Koil.

For Petitioner : Mr.Niranjana S.Kumar,
for Mr.V.Balaji.

For Respondents: Mr.S.Kumar

* * *

ORDER

Heard both sides.

2. In response to the tender notification dated 22.09.2014, the petitioner submitted his application. As per the terms of the notification, the petitioner was to keep his offer open up to 27.11.2014. The petitioner withdrew his tender on 04.10.2014 itself. Therefore, the petitioner's EMD was forfeited. He was also banned from participating any tender for a period of five years. The ban period has since been expired. The only question that calls for consideration is whether the respondents were justified in forfeiting the EMD amount. The learned counsel appearing for the petitioner states that the withdrawal of the tender was necessitated by



the conduct of the Corporation by appointing another contractor because the petitioner quoted higher rates.

3. Such contractual disputes cannot be adjudicated in the writ proceedings. Granting liberty to the petitioner to file a civil suit, this writ petition stands disposed of. If the civil suit is filed within a period of eight weeks from the date of receipt of a copy of this order, limitation shall not be raised as a defence against the petitioner. All the contentions of the petitioner are left upon. Since the banned period is already over, the petitioner is eligible for participating in any of the tenders floated by the respondent Corporation. This writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

27.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

PMU



WEB COPY



4

W.P.(MD)NO.4145 OF 2015

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.4145 of 2015

27.09.2023