



W.P(MD)No.21788 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.21788 of 2023

and

W.M.P.(MD)Nos.18176, 18177 and 23443 of 2023

Jeba Jose

... Petitioner

Vs.

1.The Director of Town Panchayat,
Chennai.

2.The District Collector,
Kanyakumari,
Kanyakumari District.

3.The Assistant Director of Town Panchayat,
Nagercoil, Kanyakumari District.

4.The Executive Officer,
Thiruvattar Town Panchayat,
Thiruvattor,
Kanyakumari District.

5.Benila,
President,
Thiruvattar Town Panchayat,
Kanyakumari District.

... Respondents

*(R5 is impleaded vide order dated 24.11.2023 in
W.M.P.(MD)No.23441 of 2023 in
W.P.(MD)No.21788 of 2023 by GRSJ).*



W.P(MD)No.21788 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned tender notice Na.Ka.No.A1/210/2022 dated 14.08.2023 on the file of the 4th respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.M.Prakash,
Addl. Government Pleader for R1 to R3.
Mr.G.V.Vairam Santhosh,
Addl. Government Pleader for R4.
Mr.T.Arul for R5.

ORDER

Heard both sides.

2.The writ petitioner is a class – I contractor. He questions the impugned tender notification issued by the local body on the ground that it is not in compliance with Rule 4-A of the Tamil Nadu Tender Transparency Rules, 2000. Finding merit in the said contention, this Court granted an interim order on 05.09.2023. To vacate the same, the petitions have been filed by the local body and the Chairman of the local body.

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3. My attention is drawn to G.O.(Ms)No.94 Finance Department dated 30.03.2023 issued by the Government of India. The said government order states that Rule 4-A of the Tamil Nadu Transparency Rules, 2000 will not apply to procurement covered under Section 16 of the Tamil Nadu Transparency in Tenders Act, 1998. Section 16(d) of the Act reads as follows:-

“16. The provisions of sections 9 and 10 shall not apply to procurement,-

(d) of low value and local purchases as may be prescribed;

(dd) from domestic small-scale industrial unit for the reserved items identified by the Central Government:

Provided that where a procuring entity intends to procure any of such reserved items, the procuring entity shall procure such item from the domestic small-scale industrial units and the provisions of section 9 and 10 shall apply to such procurement;”

Thus, low value tenders are exempted from the operation of the aforesaid rule. I am satisfied that the case on hand is a low value tender.



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Therefore, there is no merit in the contention putforth by the writ petitioner. The writ petitioner is dismissed. The interim order already granted is vacated. However, taking into account the special facts and circumstances of the case, the petitioner is given liberty to register himself as a contractor with Thiruvattar Town Panchayat. It is for the petitioner to approach the fourth respondent on 27.11.2023 and submit all the relevant documents. If there is no legal impediment as such, application of the petitioner for register himself will be accepted on the same day itself. Once the petitioner is registered as a contractor with the fourth respondent, the petitioner will be given opportunity like others to offer his tender in response to the tender notification. No costs. Consequently, connected miscellaneous petition are closed.

24.11.2023

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

Issue order copy on 24.11.2023.



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G.R.SWAMINATHAN, J.

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**24.11.2023
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