



WP (MD) No.3386 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2023

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CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.3386 of 2016

and

WMP (MD) No.2982 of 2016

V.Kannappan

... Petitioner

Vs

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Commissioner of Municipality,
Municipality Office,
Pattukottai,
Thanjavur District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus, directing the 2nd respondent to permit the petitioner to continue to work as per the re-tender notification dated 16.09.2014.

For petitioner : Mr.P.Thirumahilmaran

For Respondents : Mr.J.K.Jeyaseelan,
No.1 Government Advocate

For Respondent : Mr.J.Parekh Kumar
No.2



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ORDER

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This writ petition is filed for a writ of mandamus, directing the 2nd respondent to permit the petitioner to continue to work as per the re-tender notification dated 16.09.2014.

2.The case of the petitioner is that he had participated in the re-tender floated by the 2nd respondent for collection, segregation and transportation of municipal solid waste in 20 wards for period of 20 years. The petitioner quoted Rs.1,645/ per tonne for transportation of the municipal solid waste. His quotation was approved by the 2nd respondent and he was awarded with the contract work. Pursuant to the same, the petitioner has also deposited a sum of Rs.1,20,000/- as EMD deposit. While so the respondents are not permitting the petitioner to carry out the work, without even issuing any notice.

3.The learned Counsel for the petitioner submits that after the contract was awarded to the petitioner, he has



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purchased several vehicles, viz, Compact - 1 No, Push cart - 42 Nos, compactor pin - 42 Nos and Tricycle - 40 Nos.

Initially the contract was given for one year with an assurance that it would be extended for the subsequent year, depending on the performance. The petitioner has also transported the municipal solid waste from 01.03.2015 to 15.04.2015. However from 16.04.2015 the petitioner was not permitted to execute the work. It is the further case of the petitioner that neither the petitioner had been called upon to offer any explanation nor had they cancelled the contract awarded to him on 07.10.2014. If the 2nd respondent had at any point of time felt that the work of the petitioner was not satisfactory, he should have issued notice in this regard. Therefore, not permitting the petitioner to carry out his work as per the contract awarded to him is illegal, when the petitioner had purchased equipment by investing huge amount.

4. When the writ petition came up for admission in the year 2016, one Mr. Guru, learned Additional Government Pleader took notice for the respondents. One



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Mr.P.Srinivasand Mr.J.Parekh Kumar entered appearance for respondent No.2. Thereafter the case was listed on 22.02.2023 and it was adjourned to 23.02.2023. On 23.02.2023 at the request of the learned Counsel for the respondent for filing counter it was adjourned to 28.02.2023.

5.Accordingly this case is listed today. Though this writ petition is pending from the year 2016, the respondents have not filed any counter affidavit so far. Mr.Parekh Kumar, learned Counsel appearing for 2nd respondent expressed difficulty in getting instructions from 2nd respondent.

6.This writ petition is pending from the year 2016 and no counter is filed by the respondents refuting the averments made in this writ petition. Therefore, this Court presumes that the respondents are not having any point to refute the averments of the petitioner. Moreover, the petitioner has been awarded with contract to carry out the work, he also invested huge amount by purchasing equipment



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and all of a sudden he was not permitted to carry out the work, without cancelling the contract awarded to him by following the due procedure and even no notice was issued to the petitioner. Therefore, this Court is of the view that the writ petition deserves to be allowed.

7.In the result, this writ petition is allowed. The respondents are directed to permit the petitioner to carry out the work for the remaining period as per the contract awarded to him on 07.10.2014. No costs. Consequently connected miscellaneous petition is closed.

28.02.2023

dsk

To

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The Commissioner of Municipality,
Municipality Office,
Pattukottai,
Thanjavur District.



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B. PUGALENDHI, J.

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