



W.P(MD)No.24386 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24386 of 2023

and

W.M.P(MD)Nos.20578 & 20580 of 2023

J.Danilraj

... Petitioner

Vs.

The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.

... Respondent

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 entire records pertaining to the impugned tender notification published in Dinakaran Tamil Daily dated 24.09.2023 by the respondent vide his proceedings in Na.Ka.No. A16/2943/2023 dated 23.09.2023 in respect of leasing out the shops in the commercial complex constructed under a “Smart City Project” within the vicinity of old bus stand (Anna Bus Stand) and quash the same.



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For Petitioner : Mr.R.Anand
For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by Mr.Anandkumar
Standing Counsel

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Advocate General assisted by the learned Standing Counsel appearing for the Thoothukudi Town Municipal Corporation.

2. The petitioner challenges the impugned tender notification primarily on the ground that the tender process is riddled with uncertainty. My attention has been drawn to the order dated 19.12.2018 made in W.P(MD)No.24461 of 2018 (Anna Perunthu Nilaya Vattara Viyaparikal Nala Sangam Vs The State of Tamil Nadu & Others). Paragraphs 2, 3, 6 and 9 of the order read as follows: --

“2. The members of the Association are the licensees under the Tuticorin Municipal Corporation. They are in possession of the shops located inside the old bus stand, Tuticorin. The Corporation initiated action for eviction of the existing licensees for reconstruction of



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bus stand and the same resulted in filing this Writ Petition.

3. The Tuticorin Municipal Corporation is included in the smart city project. In order to make the city smart, the Municipal Corporation initiated various measures, which includes the reconstruction of the bus stand. The existing licensees were directed to vacate the premises with an undertaking that they would be given allotment once the bus stand is re-constructed. However, the proposal was not acceptable to the traders, resulting in taking up follow-up action by the Municipal Corporation for their eviction.

4.

5.

6. The Commissioner, Tutirocin Municipal Corporation filed an affidavit dated 10 January, 2019, undertaking to allot shops to the existing licensees after re-construction of the bus stand. The Commissioner, in his affidavit, referred to the undertaking affidavits submitted by the existing licensees. There is a dispute with regard to the undertaking affidavits given by the licensees of premises in Serial Nos.9, 22, 27, 28, 29, 30, 45, 48 and 49.

7.



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8.

9. The existing licensees have given undertaking affidavits before the Tuticorin Municipal Corporation to vacate and hand over vacant possession on or before 31 January, 2019. However, they would be given time to vacate the premises till 14 February, 2019. The vacant possession should be handed over to the Tuticorin Municipal Corporation by 15 February, 2019. We make it clear that in case the shops are not handed over to the Local Body on or before 15 February, 2019, such defaulters shall be thereafter evicted forthwith without any further notice and they would not be given allotment of new shops after re-construction.”

The petitioner's case is that even if he turns out to be the highest bidder for a particular shop, there is no guarantee that he will get the same if the earlier lessee offers to match the bid. The learned counsel appearing for the petitioner is right in his contention that the process is shrouded in uncertainty.

3. But in view of the earlier order passed by the Hon'ble Division Bench and also Rule 316(1) of the Tamil Nadu Urban Local Body Rules, 2023, this outcome is unavoidable. The object of the corporation is to



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ascertain the market price. The ascertainment is possible only by holding a proper public auction. Nobody is compelling the petitioner to participate in this tender process. It is a matter of his choice. He may get the shop for which he has bid or he may not. In view of the statutory position and also the earlier order of the Hon'ble Division Bench, no relief can be granted in the writ petition.

4. However, considering the special facts and circumstances obtaining in this case, the petitioner is permitted to apply for tender schedule. If the petitioner's nominee Thiru.M.Thangaraj, S/o.Muthu Krishnan applies for issue the tender schedule before 01.00 p.m today (09.10.2023), it shall be issued. The nominee has to fill up the same immediately. The said nominee is permitted to fill up the tender schedule on behalf of the writ petitioner. He is also permitted to pay the caution deposit as cash. He shall be permitted to submit the tender in sealed cover and if any auction takes place today (09.10.2023), the petitioner's representative can also participate therein. Since the order copy cannot be issued before 06.00 p.m, the learned Standing Counsel is directed to inform the respondent about the terms of this order.



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5. This writ petition is dismissed with the aforesaid liberty to the petitioner. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.10.2023

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

To

The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.



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G.R.SWAMINATHAN, J.

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