



W.P.No.475 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.475 of 2022

Greens Agency,
A Proprietary Concern,
represented by its Proprietor
Sugumathi Tamilmani

... Petitioner

Vs.

1.The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
No.37, Mettupalayam Road,
Coimbatore - 641 043.

2.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Coimbatore)
No.37, Mettupalayam Road,
Coimbatore - 641 043.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the second respondent bearing reference 4944/A1/TNSTC/2021 dated 02.08.2021 and 4945/A1/TNSTC/2021 dated 02.08.2021 and quash the same as illegal.



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For Petitioner : Mr.C.G.Kumar

For Respondents : Mr.R.Sundaravadhanam,
Standing Counsel

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records of the second respondent bearing reference 4944/A1/TNSTC/2021 dated 02.08.2021 and 4945/A1/TNSTC/2021 dated 02.08.2021 and quash the same.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been engaged in the business of distributing and marketing several products and also marketing advertising space in various mediums and the first respondent has been operating buses, inter alia in Coimbatore, Tirupur and Nilgiris Districts. While so, the first respondent had offered advertising space in the buses plying on the aforesaid routes, whereby boards measuring 4'X3' could be fixed on the rear side of the buses and boards measuring 1'.6X1'.9 could be fixed on the back side of the driver partition on the buses that are being operated by the first respondent. The first respondent had called for tenders from interested parties to advertise in the spaces on the buses being operated by them.

3.The learned counsel for the petitioner further submitted that the



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petitioner was interested in displaying their advertisements in the buses being operated by the first respondent and made a bid for the same and the second respondent vide their communication dated 22.10.2019 called upon the petitioner to pay the required licence fee and create an agreement. In this regard, an agreement dated 05.12.2019 was entered into between the petitioner and the first respondent. As per the above agreement dated 05.12.2019, entered into between the petitioner and the first respondent, there is a clear obligation on the part of the first respondent to carry the advertisement board of the petitioner in 585 buses of Ooty - Tiruppur Region for the period of 11 months from 05.12.2019 to 05.11.2020 and the agreement could be renewed for two more blocks of 11 + 11 months upon such enhancements of license fee and to operate 511 buses in the Coimbatore region as per the award letter dated 10.02.2020 from 04.02.2020 to 03.01.2021 and renewal thereof in three blocks of 11 months each. While so, during March 2020, the spread of Covid 19 forced the Central Government to invoke the provisions of the Disaster Management Act, 2005 and consequently, the Tamil Nadu Government also imposed a total lock down in the State of Tamil Nadu. Consequently, the first respondent did not operate any buses from 23.03.2020 to 06.09.2020, thereby the terms of the



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agreement dated 05.12.2019 for the Ooty-Tiruppur region and the award for the Coimbatore Region as seen under letter 4933/A1/AM(Civil)/TNSTC (CBE)/2020 could not be adhered to by the first respondent.

4.The learned counsel for the petitioner would further submit that vide three letters dated 03.06.2020, addressed to the second respondent, the petitioner represented to the respondents that the buses belonging to the first respondent did not operate as contemplated under the above agreement, entered into between the petitioner and the first respondent and therefore, the license fee waiver should be given for the period from 23.03.2020 to 06.09.2020. But, the second respondent vide their letter dated 26.09.2020 had made a demand of Rs.67,74,144/- towards license fee from the petitioner, which is unsustainable owing to the fact that the respondents did not ply the required number of buses due to the lock down imposed by the Tamil Nadu Government. Though the petitioner made several requests to the respondents seeking license fee waiver, the second respondent through the impugned letters dated 02.08.2021 have refused to consider the representations of the petitioner and also cancelled the license given to the petitioner, without assigning any valid reason, which is un-sustainable.



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Challenging the same, the petitioner is before this Court.

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5.The learned Standing Counsel appearing for the respondents would submit that as per the terms and conditions of the agreement dated 05.12.2019 and 04.02.2020, the Tamil Nadu State Transport Corporation shall not be responsible for any discontinuance of advertisement on the buses under the deed caused under instructions of the State and Central Government or due to the policy decision taken by the Board of Directors of the TNSTC or by introduction of any new statutory provisions. He would further submit that in the event of such discontinuation, the TNSTC shall arrange to refund the Security Deposit, paid by the licensee within 30 days from the notice of such cancellation after deducting any dues payable to the TNSTC by the licensee and on prorata basis of usage period of the bus panel for advertisement.

6.The learned Standing Counsel would further submit that as per Clause 20 of the said agreement, the parties can amicably resolve the disputes/differences between the respondents and the petitioner before the Sole Arbitrator, whose decision/order shall be final and binding on the



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parties to the dispute and the proceedings shall be in accordance with the Arbitration and Conciliation Act, 1996. Therefore, the learned Standing Counsel seeks for an appropriate direction.

7. Heard the arguments advanced on either side and perused the materials available on record.

8. Considering the request now made by the learned Standing Counsel for the respondents and also considering the fact that Clause 20 of the agreement dated 05.12.2019 provides for Arbitration Clause to amicably resolve the disputes/differences between the respondents and the petitioner before the Sole Arbitrator in accordance with the Arbitration and Conciliation Act, 1996 and so as to give a quietus to this matter, this Court directs the petitioner to address a letter to the Managing Director, Tamil Nadu State Transport Corporation Ltd., the second respondent seeking appointment of an Arbitrator within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent shall appoint an Arbitrator to amicably resolve the disputes between the parties within a period of two weeks thereafter. The parties are permitted to



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make their respective claim petitions before the Sole Arbitrator within a period of two weeks thereafter. The Sole Arbitrator may decide the issue between the parties and pass appropriate orders, on merits and in accordance with law, as expeditiously as possible. The parties are at liberty to raise all issues before the learned Arbitrator.

9.The writ petition is disposed of accordingly. No costs.

25.09.2024

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

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M.DHANDAPANI,J.

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