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W.P.No.7501 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

**W.P.No.7501 of 2024 and
W.M.P.Nos.8403 & 8404 of 2024**

M.Mullai Malar

.. Petitioner

Versus

1.The Commissioner,
Greater Chennai Corporation,
Chennai 600 003.

2.The District Revenue Officer / The Zonal Officer,
Zone - 9,
Greater Chennai Corporation,
No.1, Lake Area, 4th Cross Street,
Nungambakkam,
Chennai 600 034.

Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to Tender Notification in limited E-tender in Tender Reference No.Z.O.9.Na.Ka.No.E1/0099/486/2017 (uploaded on 12.03.2024) on the file of the second respondent and quash the same and direct the respondents to extend the lease period in work order No.Z.O.IX.C.No.E1/0099/486/2017 dated 02.03.2017 for further period of 5 years from 01.04.2024 to operate and maintain the swimming pool situated at Marina Beach which is under the control of the respondents as per the terms and condition made in the work



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order with regard to the period of contract.

For Petitioner : Mr.S.Doraisamy
For Respondents : Mrs.P.T.Ramadevi
Standing Counsel

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus, to call for the records relating to Tender Notification in limited E-tender in Tender Reference No.Z.O.9.Na.Ka.No.E1/0099/486/2017 (uploaded on 12.03.2024) on the file of the second respondent and quash the same and direct the respondents to extend the lease period in work order No.Z.O.IX.C.No.E1/0099/486/2017 dated 02.03.2017 for further period of 5 years from 01.04.2024 to operate and maintain the swimming pool situated at Marina Beach which is under the control of the respondents as per the terms and condition made in the work order with regard to the period of contract.

2. The case of the petitioner is that the respondent Corporation issued a notification calling for the limited tender to be held on 15.02.2017 for providing technical support with men and materials including operation, safety, collection and sharing of maintenance of swimming pool situated at Marina Beach Road. The petitioner participated in the said tender and became a successful bidder and it was agreed that the lease amount was Rs.12,00,000/- for a period of one year with a premium of 5% every year for a period of 5



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years. Apart from that, security deposit of Rs.2,00,000/-. The second respondent on 02.03.2017 awarded the contract and issued the work order in favour of the petitioner.

3. According to the petitioner, the period of contract is five years initially and shall be extended for further five years totalling 10 years on the same terms and conditions, based on the performance of the petitioner. The petitioner had started to run the swimming pool as per the terms and conditions of the work order along with various amenities. Thereafter, in March 2020, the Government passed an order due to Covid-19 to close all the swimming pools until further orders. Therefore, the petitioner closed the swimming pool as per the Government Order. Thereafter, only on 06.05.2022, the swimming pool was opened. Since the swimming pool was not operated for two years, the petitioner is entitled for waiver of lease amount for those periods and for the extension of lease period for two years. She sent a representation in this regard and an order was passed by the respondents waiving the lease amount and extending the lease period.

4. According to the petitioner, the five years period after deducting the two years lockdown period will come to an end on 31.03.2024. As per the



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terms and conditions in the work order, the petitioner is entitled for a further extension of 5 years and she made a representation in this regard. The second respondent without considering the representation of the petitioner, issued a notification on 12.03.2024 calling for a fresh tender to be held on 19.03.2024. Challenging the same, the petitioner is before this Court.

5. The learned Standing Counsel for the respondents submitted that the tender dated 15.02.2017 was called for improvement, operation and management of the Marina Swimming Pool. The petitioner and others were participated in the said tender and the petitioner became a successful bidder. Thereafter, the work order was given to the petitioner. Accordingly, the lease period has come to end on 31.03.2024. Owing to the interim order passed by this Court in this Writ Petition, the lease period was extended from 01.04.2024 to 30.06.2024. After the expiry of the said period, the petitioner cannot force the Greater Chennai Corporation to extend the lease period for five years. The extension of five years subject to the satisfaction of the Corporation towards the performance of the petitioner. Therefore, the second respondent called for a fresh tender. The petitioner without participating in a fresh tender, has filed this Writ Petition with an ulterior motive to obtain orders in her favour.



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6. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents and perused the materials available on record.

7. It is seen that the petitioner has not taken any steps to atleast participate in the fresh tender. Without participating in the fresh e-tender, the petitioner is hanging on the point that she should be permitted for extension of five years. It is seen that the respondents have also extended the period for another three months i.e., from 01.04.2024 to 30.06.2024. Thereafter, a notification was issued on 12.03.2024 calling for a tender to be held on 19.03.2024. In the e-tender conducted on 19.03.2024, M/s.Sangavai Infrastructure has been chosen as a highest bidder and the bid amount was finalised for Rs.18,81,012/-.

8. The petitioner has already been granted with the extension of three months. That being the case, the petitioner cannot expect the authorities to be so lenient on her. The contention of the petitioner that since the performance certificate was not issued by the respondents, she has not participated in the fresh tender, is not acceptable. The petitioner could have approached the authorities seeking performance certificate. But she has approached this Court



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seeking a direction against the respondents. The extension of earlier bid for further five years could be granted only on the satisfaction of the Corporation on the performance of the petitioner. Since the petitioner has not satisfied through her performance, the Corporation proceeded in the manner known to law and conducted a fresh tender and accordingly, the Corporation has chosen a highest bidder. Therefore, this Court does not find any reason to pass any order against the respondents herein.

9. In view of the above stated reasons, this Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petitions are closed.

Index :Yes/No
Speaking / Non-speaking order
Neutral Citation : Yes/No
gsk

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V.BHAVANI SUBBAROYAN, J.

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