



W.P.No.12749 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2024

CORAM :

THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

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D.JAYAKUMAR

.. Petitioner

Vs

1. THE GOVERNMENT OF TAMILNADU,
REPRESENTED BY ITS PRINCIPAL SECRETARY
MUNICIPAL ADMINISTRATION AND
WATER SUPPLY DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 600 009.

2. THE DIRECTOR,
MUNICIPAL ADMINISTRATION AND
WATER SUPPLY DEPARTMENT,
CHEPAUK, CHENNAI - 600 005.

3. THE DISTRICT COLLECTOR,
OFFICE OF THE COLLECTORATE,
VELLORE DISTRICT.

4. THE COMMISSIONER,
GUDIYATHAM MUNICIPALITY,
GUDIYATHAM, VELLORE DISTRICT.

5. M.KARPAGAM

6. R.MOORTHY

7. P.VIJAYAKUMAR

8. P.SATHISKUMAR

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondent authorities to cancel the award of contract/tender in favour of the 6th and 7th respondents and reallocate the tender by conducting fresh auction and direct the respondent authorities to declare the 5th respondent as disqualified as per the provisions of law by disposing of the petitioner's representation dated 1.3.2024 within a stipulated time.

For the Petitioner : Mr.M.Sudhan

For the Respondents : Mr.Karthik Jeganath
Government Advocate
for respondents 1 to 3

: Mr.P.Srinivas
for 4th respondent

: Mr.C.P.Arivudai Nambi
for 5th respondent

: Mr.K.A.Ravindran
for 6th respondent

: No appearance
for respondents 7 and 8

ORDER

(Order of the Court was made
by the Hon'ble Acting Chief Justice)

Complaining that the sixth respondent, who is the husband of the fifth respondent [Councillor of Gudiyatham Municipality 7th



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Ward], has been awarded the contracts pertaining to (i) toll collection in Dharanampettai Daily Vegetable Market; and (ii) toll collection in the old and new bus stands for parking buses, for the period from 1.4.2022 to 31.3.2025, in gross violation of the rule that the relatives and blood relatives of an officiating member of the Municipality would not be entitled to yield income through the Municipality either directly or indirectly, the petitioner sent a representation to the respondent authorities on 1.3.2024. As the said representation did not elicit any response, the present writ petition is filed.

2. Mr.Sudhan, learned counsel for the petitioner, submitted that the fifth respondent was elected as a Councillor of the 7th Ward in the Gudiyatham Municipality in the elections notified on 19.2.2022 and by misusing her political power, she had taken the aforesaid contracts in the name of the sixth respondent, who is her husband. On the basis of the aforesaid submission, he pleaded that the contract awarded to the sixth respondent be cancelled and a fresh auction be conducted and the fifth respondent be disqualified



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from holding the post of Councillor of the 7th Ward in the Gudiyatham Municipality.

3. Per contra, Mr.P.Srinivas, learned counsel appearing on behalf of the fourth respondent Municipality, submitted that an open auction for award of the aforesaid contracts was held on 19.1.2022 at the Municipal Office, prior to the election of the fifth respondent as Councillor, and the resolution of the Municipal Council awarding the contracts to the sixth respondent is dated 20.1.2022. It is further submitted that, by virtue of proviso to Section 12(6)(c) of the Tamil Nadu Urban Local Bodies Act, 1998, if the subsisting contract pertains to a lease in respect of an immovable property by a family member, it is not a disqualification for a person being elected as a Councillor.

4. We have heard learned counsel for the parties and perused the documents on record, including the counter affidavit filed by the fourth respondent.



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5. It is beyond any cavil that, as per the government orders, the fourth respondent Municipality passed a resolution on 16.12.2021 to conduct an open auction in respect of the aforesaid works. The proposal to conduct an open auction was published in the daily newspaper on 19.12.2021. The sixth respondent participated in the auction and was declared as the highest bidder and the contract in respect of the aforesaid works was granted to the sixth respondent as per the Municipal Council Resolution No.7, dated 20.1.2022. The notification for conduct of election to the urban local bodies was issued on 19.2.2022, much after the passing of the resolution dated 20.1.2022. Therefore, the contention of the petitioner that the contract was awarded in favour of the sixth respondent because of the political power exerted by the fifth respondent cannot be countenanced.

6. To appreciate the contention of learned counsel for the petitioner that the fifth respondent should be disqualified inasmuch as she, through her family member, is interested in a subsisting contract being done for the municipality, it is seemly to refer to the



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relevant portion of Section 12(6) of the Tamil Nadu Urban Local Bodies Act, 1998, which reads thus:

"12. Qualification and disqualification for being elected as councillor—

(1) to (5)

(6) A person shall be disqualified for being elected as a councillor if such person is, on the date of filing the nomination,—

(a) of unsound mind and is declared so by the competent Court having jurisdiction;

(b) an un-discharged insolvent or an applicant to be adjudicated as an insolvent;

(c) directly or indirectly, by himself or through his partner or through his family member interested in a subsisting contract made with or any work being done for the municipality except as a shareholder (other than a director) in a company.

Explanation.—For the purpose of this clause, the expression "family", in relation to a person, means a person, the wife or husband, as the case may be, of such person and the sons, daughters in-law, unmarried daughters, brother, unmarried sisters, father and mother:



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***Provided that a person shall not be deemed to have any interest in such contract or work by a reason only of his having a share or interest in-
(i) any lease, sale or purchase of immovable property or any agreement for the same;"***

7. From a cursory glance of the aforesaid provision it is luculent that the person shall not be disqualified if the interest is in any lease, sale or purchase of immovable property or any agreement for the same.

8. That apart, there is not an iota of material placed before us in support of the sweeping allegations levelled by the petitioner as against the fifth respondent. A public interest litigation based on speculation cannot be entertained so as to make a roving enquiry.

9. For the foregoing reasons, the writ petition is dismissed, with liberty to the petitioner to approach the authorities concerned, if there is any violation of law while awarding contract to the sixth respondent, husband of the fifth respondent and in case such a



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representation/complaint is made by the petitioner, the authorities concerned shall consider the same on merits and in accordance with law and take appropriate action. There shall be no order as to costs.

(D.K.K., ACJ.) (K.B., J.)
18.07.2024

Index : No
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To:

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THE HON'BLE ACTING CHIEF JUSTICE
AND
K.KUMARESH BABU,J.

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