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W.P.No.25374 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.09.2024

PRONOUNCED ON : 23.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.25374 of 2024 and
W.M.P.Nos.27735 & 27738 of 2024

1. M.Vishnukumar
2. R.K.Bagavan
3. G.Karthikeyan
4. S.Senthilkumar

... Petitioners

-Vs-

1. The Commissioner,
Salem Corporation,
Salem.
2. The Assistant Commissioner,
Ammapettai Zone,
Salem Corporation,
Salem.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned tender notification in Na.Ka.No.L8/1238/2023 dated 21.08.2024 issued by the second respondent and to quash the same insofar as shops in item 1 & 2 of Victoria Shopping Complex, Salem is concerned and consequently directing the respondents to conduct re-tender for leasing out the shops



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in under ground floor and ground floor of Victoria Shopping Complex in old bus stand belong to Corporation in accordance with the provisions of Tamil Nadu Transparency in Tenders Act, 1998 and Rules, 2000, by permitting the Petitioners to participate in the tender cum auction.

For Petitioners : Mr.P.Wilson, Senior Counsel
For Mr.S.Nedunchezhiyan
For Respondents : Mrs.N.Devi
Standing Counsel

ORDER

This writ petition has been filed challenging the tender notification dated 21.08.2024 floated by the second respondent insofar the shops in item Nos. 1 & 2 of the Victoria Shopping Complex, Salem, as per the provisions of Tamil Nadu Transparency in Tenders Act, 1998 and Rules 2000.

2. Originally, the second respondent issued notification in the month of June 2024 for auction cum tender in respect of the shops located in the ground floor and first floor of Victoria Shopping Complex, by scheduling the tender in the month of July 2024. However, the said tender was not conducted as per the schedule and postponed. Subsequently, the second respondent issued tender cum auction notification on 16.08.2024, inviting tender from the intending



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participants by fixing the last date for payment of deposit on 19.08.2024 at 4 p.m., and for opening of tender on 20.08.2024 at 11.30 a.m.

However, there was objection that without following as per the Tamil Nadu Transparency in Tenders Act and Rules, the said tender notification was floated and as such the second by the notice dated 19.08.2024, postponed the entire proceedings of tender cum auction.

3. Now the second respondent issued the present notification dated 21.08.2024 and fixed tender cum auction on 22.08.2024 with direction to deposit security deposit amount before 4 p.m., on 21.08.2024 and the sealed tender to be submitted on or before 22.08.2024 at 11 a.m., and the tender will be opened on 22.08.2024 at 11.30 a.m. It was not published in the newspaper and it was affixed in the notice board and the Zonal Office of the second respondent at 5 p.m., on 21.08.2024 viz., after 4 p.m., as it was fixed for marking security deposit. Therefore, the petitioners and others had no knowledge about the tender cum auction is sought to be conducted on 21.08.2024 and 22.08.2024. Therefore, the petitioners submitted representation by referring the serious discrepancies in the process of tender. However it was not considered.



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4. The learned Senior Counsel appearing for the petitioners submitted that the second respondent committed serious irregularities while floating the tender cum auction notification. Rule 20 of the Tamil Nadu Transparency in Tenders Rules 2000 (hereinafter referred to as “the Rules”) provides minimum time for submission of tender. Rule 20(1)(a) of the Rules says that for the tender value of upto rupees two crores, fifteen days time to be given. In case of more than two crores in value, the time should be given for 30 days. The tender cum auction notification affixed in the notice board on 21.08.2024 at 5 p.m., i.e., beyond the time for 4 p.m., for making security deposit. The opening of tender was fixed on 22.08.2024 without even giving one day time. The tender cum auction notification was not in accordance with Section 9(3) of the Act and it was not published in any of the newspapers.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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6. The respondents filed counter and on the submission made by the learned Standing Counsel appearing for the respondents revealed that the second respondent consists of Victoria Mall Shops and Bose Maidan shops. For 173 shops in the Ammapet Shops, Arunachalam Street Office Building, Bose Maidan Upstairs Building, Bose Maidan old shops were invited from the public. The notice was published in the newspaper on 30.06.2024 and the auction of shops was fixed on 11.07.2024. But, the petitioners did not submit any bid and did not deposit any money. However, due to administrative reasons, the action activity was postponed without further date being announced. Further subsequently another notice has been announced and the same could not be proceeded due to the government exhibition which gathering of public in the said exhibition.

7. While being so, for the Victoria Commercial shops, Bose Maidan Commercial Shops which were constructed under the smart city scheme and V.O.C. daily market Chippam-1, auction was processed and notice was issued on 16.08.2024. It was also affixed in the office of the second respondent stating that the date of bidding for the lease will be on



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20.08.2024. On 19.08.2024, the last day of the deadline, so many people approached the office seeking bid for the lease and submitted all the amount including the application form for participation in the bid. Once again the auction proceedings have been postponed and the same was published in the notice board on 19.08.2024. Subsequently announcement was fixed in the notice board of the second respondent stating that auction proceedings will be held on 22.08.2024 at about 11 am. Even before postponement of auction within the period given for submission of the applications ie., up to 4 p.m., on 21.08.2024, nothing including pre-bid, security deposit, contract form and GST amount was submitted to the office for auctioning by the petitioners.

8. In the said auction, about 113 applications were duly received for participation in the auction and bidding for 77 shops in Victoria Mall out of the total number of 159 shops within the period of publication of the above notification. Out of these 113 applications, the petitioners did not submit any application within the stipulated period. After expiry of the period, on 22.08.2024, the tenders were received at 11 a.m., and the tenders were opened at 11.30 a.m.



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WEB COPY 9. In fact, all the auction and tender proceedings were videographed. The first petitioner attended the proceedings and submitted application form and participated in the auction. Insofar as the Victoria commercial shops, there are totally 93 shops for which, 119 applications were received. Out of 119 applications, 75 alone were taken up and 44 applications were rejected. Insofar as the Bose Maidanam commercial shops built under smart city scheme, there are 66 shops in which no bid was received. In respect of VOC daily market Chippam-1, there is only one shop and one bid was received and the same was taken up.

10. Further, for the above shops, 41 persons, who are farmers and small traders, have requested to bid for individual shops. Two other wholesalers have bid for 17 stores each in the Victoria Commercial complex. Therefore, the applications have been considered for lease of shops to them. There is no restriction on auctioning of shops for the lease items to individuals in bulk and all trade shops are allowed to operate in these commercial shops as per law.



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11. That apart, out of total 93 shops in the Victoria Commercial complex, 75 shops were auctioned in which 18 shops are under re-auction process. Out of total 66 shops in Bose Maidan Commercial shops, none of the shops were auctioned. Therefore, 18 shops in Victoria Commercial Complex and 66 shops in Bose Maidan Commercial shops are being re-auctioned. Therefore, if the petitioners wish to take auction the shops, they can very well approach the respondents to participate in the re-auction and bid the shops. Further the respondents did not intend to reserve the shops for any other individual. All the earlier auction notification, the Rule 20 of the Rules has been duly followed by the respondents. Therefore, this Court finds no infirmity or illegality in the tender notification issued by the second respondent. The petitioners are at liberty to approach the respondents to participate in the re-auction and bid the shops for 18 shops in the Victoria Commercial complex and for 66 shops in Bose Maidan Commercial shops build under smart city scheme.



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WEB COPY 12. Accordingly, the Writ Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

23.10.2024
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Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

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To

1. The Commissioner,
Salem Corporation,
Salem.
2. The Assistant Commissioner,
Ammapettai Zone,
Salem Corporation,
Salem.



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G.K.ILANTHIRAIYAN. J.

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