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W.P.Nos.28206, 28210 & 28212 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.28732 of 2024

and

W.M.P. Nos.31329 & 31331 of 2024

Chennai Fire Works Dealers Welfare Association,
Rep.by its Executive President, R. Natarajan,
No.60/42, Bunder Street,
Chennai – 600 001.

.. Petitioner

Versus

1.The Principal Secretary to Government,
Tourism, Culture, Religious Endowments,
and Chairman, Tamil Nadu Tourism Development Corporation,
Fort St. George,
Secretariat, Chennai – 600 009.

2.The Managing Director,
Tamil Nadu Tourism Development Corporation,
No.2, Wallajah Salai, Chennai – 600 002.

3.The General Manager,
Tamil Nadu Tourism Development Corporation,
No.2, Wallajah Salai, Chennai – 600 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned E-Tender notification dated 13.09.2024 bearing No.62/FS/2024 issued by the 2nd respondent and quash the same by declaring



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the same as unsustainable in law and also against the Principles of Natural Law and Justice and consequently direct the respondents 1-3 to frame the terms and conditions for conducting 'Diwali Crackers Fair 2024' at Island grounds from 18.10.2024 to 01.11.2024 by following the provisions of the Tamil Nadu Transparency in Tenders Act, 1998 and the Tamil Nadu Tender Transparency in Tender Rules, 2000 and previous orders of this Court.

For Petitioner : Mr. M. Vijay Anand

For Respondents : Mr. L.S.M. Hasan Fizal, (for R1)
Additional Government Pleader.

: Mr. R. Neelakandan, (for R2 & R3)
Additional Advocate General.

ORDER

Challenging the E-Tender notification dated 13.09.2024 bearing No.62/FS/2024 issued by the 2nd respondent by declaring it as unsustainable in law and also against the Principles of Natural Law and Justice and consequently direct the respondents 1-3 to frame the terms and conditions for conducting 'Diwali Crackers Fair 2024' at Island grounds from 18.10.2024 to 01.11.2024 by following the provisions of the Tamil Nadu Transparency in Tenders Act, 1998 and the Tamil Nadu Tender Transparency in Tender Rules, 2000 and previous orders of this Court, the present writ petition is filed.



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2. The case of the petitioner is that the petitioner association was established in the year 2003, for the welfare of the Wholesale dealers of the Fireworks having several branches in and around of Chennai. Earlier, by a common order dated 03.09.2014, this Court directed the 1-3 respondents therein to allow the two associations to collectively participate in the Tender process on behalf of its members. It is the main allegation of the petitioner that without assigning any reason the second respondent modified the Eligibility Criteria for participation in the E-Tender process and it is in violation of the specific direction issued by this Court. Again, this Court in W.P. No. 29211 of 2023 had an occasion to hold that the successful bidder is ineligible to participate, but, again the respondents changed the tender conditions and eligibility criteria. However, on 15.09.2024, in one of the Tamil dailies, the respondents published the E-Tender for conduct of 'Diwali Crackers Fair 2024' and the tender documents were uploaded on 16.09.2024 in which the second respondent had imposed an unreasonable and onerous condition in the General Conditions in the E-Tender notice. One of the conditions is that the tenderer should have 3 years of experience in conducting similar fairs (sale of crackers). Further, the tenderer should have minimum 2 years of experience in the field of sale of crackers and proof thereof has to be enclosed along with the tender conditions. This according to the petitioner is in gross violation of the specific



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directions issued by this Court in the above stated orders and therefore, the present writ petition is filed.

3. Learned counsel for the petitioner submitted that the petitioner association is a successful bidder in the earlier occasion. However, the present writ petition is filed challenging the above said E-Tender dated 13.09.2024, (which is going to be held on 03.10.2024), solely on the ground that in the first page, last paragraph an onerous condition in clause 13 was imposed by the second respondent to the effect that the "Managing Director, TTDC reserves the right to modify the terms and conditions and either to accept or reject any or all tender conditions without assigning any reason". Such a condition, according to the petitioner, is in violation of orders of this Court.

4. The learned Additional Advocate General appearing for the second and third respondents produced a letter dated 26.09.2024 stating that the condition in the E-Tender will be modified and uploaded in the official website afresh. The said letter dated 26.09.2024 is taken on record and the same is extracted hereunder:-

*“ As per direction given by the Hon'ble Madras
High Court in the Writ Petition No.28732 of 2024 during*



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the hearing held on 26.09.2024, the Tender Inviting Authority of TTDC vide Tender Notice No.62/FS/2024, Dt: 13.09.2024 published in the dailies for conduct of “Diwali Fair 2024” at Island Grounds, the terms and conditions given below in the Diwali Fair tender document will be deleted and the Corrigendum for the same will be uploaded in the TN Government e-Tenders website.

e-Tender Document Terms and Conditions		
Page No.02, Last Para		The Managing Director, TTDC reserves the rights to modify the terms and conditions and either to accept or to reject any or all Tenders without assigning any reasons.
Page No.04, General Terms and Conditions No.13		The Managing Director, TTDC reserves the right or modify the terms and conditions and either to accept or to reject any or all Tenders without assigning any reasons and right to call any additional documents if required for verification.

”

5. I have heard both sides and perused the materials available on record.

6. In view of the fair stand taken by the learned Additional Advocate General appearing for the second and third respondents, which is extracted above, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

26.09.2024



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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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Note: Issue order copy on 01.10.2024.

To

- 1.The Principal Secretary to Government,
Tourism, Culture, Religious Endowments,
and Chairman, Tamil Nadu Tourism Development Corporation,
Fort St. George,
Secretariat, Chennai – 600 009.
- 2.The Managing Director,
Tamil Nadu Tourism Development Corporation,
No.2, Wallajah Salai, Chennai – 600 002.
- 3.The General Manager,
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M.DHANDAPANI, J.,

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