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W.A.No.3151 and 3153 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2024

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR. JUSTICE P.B.BALAJI

W.A.No.3151 of 2024 and
CMP Nos.24180, 24183 and 24185 of 2024
and
W.A.No. 3153 of 2024
and C.M.P.Nos.24188, 24189 and 24190 of 2024

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

... Appellant in
both writ appeals

Vs.

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.



W.A.No.3151 and 3153 of 2024

4. The Chief Financial Officer,
Tamil Nadu Tourism Development Corporation,
No.2, Wallajah Salai, Chennai 600 002.
5. The Project Engineer, I/c,
Tamil Nadu Tourism Development Corporation,
No.2, Wallajah Salai, Chennai 600 002.
6. The Fair Manager,
Tamil Nadu Tourism Development Corporation,
No.2, Wallajah Salai, Chennai 600 002.
7. Chennai Fireworks Merchants Welfare Association, @
Chennai Fireworks Merchants Welfare Association,
Rep. by its President Mr.S.Ganesan,
No.172/173, first floor, Anna Pillai Street,
Chennai 600 001.

... Respondents in
both writ appeal

PRAYER in W.A.No.3151 of 2024: The Writ Appeal is filed under
Clause 15 of the Letters Patent to set aside the common order dated
22.10.2024 passed by this court in W.P.No.31182 of 2024.

PRAYER in W.A.No.3153 of 2024: The Writ Appeal is filed under
Clause 15 of the Letters Patent to set aside the common order dated
22.10.2024 passed by this court in W.P.No.30921 of 2024.

For Appellant : Mr.M.Vijay Anand



W.A.No.3151 and 3153 of 2024

For Respondents : Mr.S.Yashwanth, Addl.Govt.Pleader
for first respondent

Mr.J.Ravindran, Addl.Adv.General
Assisted by A.Edwin Prabakar,
State Government Pleader
for respondents 2 to 6.

COMMON JUDGMENT

(Judgment of the Court was delivered by **D.KRISHNA KUMAR, J.**)

Assailing the common order passed by the learned Single Judge in W.P.No.30921 and 31182 of 2024 dated 22.10.2024, the writ petitioner in both the writ petitions has filed the present writ appeals.

2. Since the parties and the issues involved in the present appeals are one and the same, both the appeals were taken up together for hearing and common judgment is passed.

3. The appellant Association, namely Chennai fire Works Dealers Welfare Association, represented by its Executive President is the writ petitioner in the said writ petitions. The second respondent had issued E-Tender Notification dated 13.09.2024, for conduct of Diwali Crackers Fair 2024 at Island Grounds, Chennai. In the said Tender, the appellant



W.A.No.3151 and 3153 of 2024

had participated and it was declared as qualified bidder. In the said tender process, the 7th respondent also participated and its technical bid was also accepted by the respondents. According to the appellant, the second respondent had conducted the E-tender opening on 4.10.2024, contrary to the terms specified in the E-Tender notification dated 13.09.2024 and the appellant was prevented from participating in the said tender opening. Further, the respondents, without scrutinizing the documents properly, have accepted the technical bid of the seventh respondent, who furnished the forged and fabricated documents with the tender forms. The contention of the appellant is that the respondents 1 to 6 are taking hasty steps to confirm the tender in favour of the seventh respondent for conduct of Diwali Crackers Fair 2024 at Island grounds from 18.10.2024 to 01.11.2024.

4. In such circumstances, the appellant has filed W.P.No.30921 of 2023 seeking for issuance of writ of mandamus directing the second respondent to accept the petitioner's financial bid submitted along with E-Tender application dated 4.10.2024 for conduct of Diwali Crakers Fair 2024 at island grounds from 18.10.2024 to 01.11.2024 by rejecting the



W.A.No.3151 and 3153 of 2024

technical bid of the 7th respondent, who is ineligible to participate in the E-tender. It is also prayed in the said writ petition for direction to the respondents 1 to 6 to follow the terms and conditions laid down in the said tender notification by invoking the provisions of the Tamil Nadu Transparency in Tenders Act, 1998 and the Tamilnadu Tender Transparency in Tender Rules, 2000.

5. In the said writ petition in W.P.No.30921 and 2024, this court vide order dated 15.10.2024 has granted interim injunction and interim stay for carrying out process of e-Tender notification dated 13.09.2024. However, liberty was granted to the respondents 1 to 6 to erect stalls by using the State Machinery and then float tender for the said shops and allot the same, as per the Tender Transparency Act directly for the purpose of selling crackers.

6. Immediately after filing of the writ petition in W.P.No.30921 of 2024, the respondents 1 to 6 had issued orders dated 14.10.2024 in favour of the seventh respondent to conduct Diwali Crackers Fair 2024 for sale of Crackers at Island Grounds for a period of 15 days from



W.A.No.3151 and 3153 of 2024

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18.10.2024 to 01.11.2024. Therefore, the appellant has filed another writ petition in W.P.No.31182 of 2024 to quash the said order dated 14.10.2024 and also direct the respondents to follow the rules and provisions of the Tamil Nadu Tender Transparency Act and Rules.

7. The appellant also filed Cont.Petn.No.3214 of 2024 to punish the respondents for disobeying the order passed by this Court in W.P.No.30921 of 2024 dated 15.10.2024.

8. All the above W.P.No.30921, 31182 of 2024 and Cont. Petn. No.214 of 2024 were taken together for final hearing. Before the writ court, learned Additional Advocate General fairly submitted that the government has decided to withdraw the tender already to the seventh respondent and decided to hand over installation of shops to TUCS (Triplicane Urban Cooperative Society Ltd.) for conducting "Diwali Crakers Fair 2024 in the said place and the TUCS has undertaken to erect maximum 50 nos. of crackers shops on temporary basis and undertaken to install CCTV, fire safety measures, two wheeler and four wheeler parking as well as necessary electricity connection to the shops. It was



W.A.No.3151 and 3153 of 2024

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further submitted by the learned Additional Advocate General the members of the petitioner as well as the 7th respondent are entitled to participate in the auction for allotment shops; and the alternative proposal will be followed while allotting the shops along with the proposed amount, which would be the base bid amount for the said shops, as shown in the annexure.

9. The said alternative proposal submitted by the learned Additional Advocate General was agreed by the learned counsel for the appellant as well as the seventh respondent and upon considering the same, learned Single Judge has passed the following order:-

8. In the aforesaid backdrop, considering the facts and circumstances of the case and in view of the submission made by the learned Additional Advocate General and also taking into consideration the limited time available before the ensuing Deepavali festival, which falls on 31.10.2024, this Court is inclined to issue the following orders, not only for the present year, but also for the future years in respect of the sale of crackers for the Deepavali festival:-

*"1) As undertaken in the affidavit by the respondents, for the current year, 2024, TTDC shall issue allotment order to Triplicane Urban Co-operative Society (TUCS) for conducting **"Diwali***



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W.A.No.3151 and 3153 of 2024

Crackers Fair 2024" at Island Grounds by fixing the minimum assured rental charges at Rs.82.58 Lakhs plus GST on the terms and conditions mutually agreed between TTDC and TUCS.

2) The TUCS will pay Rs.82,58,000/- plus 18% GST (Rupees Eighty Two Lakhs Fifty Eight Thousand plus GST) to Tamil Nadu Tourism Development Corporation Limited (ITDC) towards assured rental charges for utilization of the Island Grounds.

3) Wide publicity about allotment of shops shall be published in newspapers, social media, notice boards of TUCS and also at Island Grounds.

4) The Sealed Offer and Public Auction shall be carried out on 24.10.2024 @ 3.00 p.m. at Island Grounds, Chennai-09.

5) The Proposed Crackers Shop layout with minimum upset rental amount for each Crackers shop as shown in the Annexure are as hereunder :

Sectors	Shop	Each shop rent (in Rs.)	Total Amount (Excluding GST) in Rs.
A Sector	8	22,500	18,00,000
B Sector	17	4,00,000	68,00,000
C Sector	15	5,60,000	84,00,000
D Sector	10	3,00,000	30,00,000
Total	50		20,00,000

6) Insofar as the subsequent years are concerned, the Government through TTDC shall erect the stalls every year, in adequate numbers, depending upon the requirement and conduct auction for the said stalls on individual basis by fixing the base rental for each shops and allot the said shops to the highest bidder



W.A.No.3151 and 3153 of 2024

through public auction sale, so that it would not only enable the State to benefit through the auction, but in turn, the public would also stand to be benefitted through competitive pricing by the sellers, who come out successful in the auction.

7) The State Government shall see to it that the aforesaid directions of this Court is followed for the subsequent years as well and is not infringed by the authorities, as acts as above, casts an unnecessary burden not only on this Court every year through repeated litigations, but also puts the public as also the sellers of crackers at a disadvantage, as otherwise they are driven to the extremes due to time constraints and would not be in a position to enjoy the festivities as also benefit monetarily."

9. With the above directions, the writ petitions are disposed of. In view of the order passed in the writ petition and also the stand taken by the respondents in the writ petition presently, though this Court is not happy with the act of the respondents, however, is not inclined to proceed any further with the contempt petition and, accordingly, the contempt petition is closed. Consequently, connected miscellaneous petitions are closed.

Now, challenging the above said order, the present writ appeals have been filed by the writ petitioner.

10. Heard the learned counsel for the appellant and the learned Additional Advocate General appearing for the respondents and we have gone through the material documents.



W.A.No.3151 and 3153 of 2024

WEB COPY

11. The second respondent had issued a tender notification dated 13.09.2024 inviting the reputed traders/Crackers Associations/Manufacturers /Even Organizers by the Managing Director for conduct of Diwali Crackers Fair 2024 at Island Grounds, Chennai. In that tender, the appellant as well as the seventh respondent had participated and the technical bid of both them were also accepted by the second respondent. Aggrieved over the acceptance made by the second respondent for the technical bid of the seventh respondent, the appellant had filed the writ petition in W.P.No.30921 of 2024 to reject the technical bid of the seventh respondent and to accept the petitioner's financial bid, by stating various grounds. Subsequently, since the official respondents had issued the order on 14.10.2024 in favour of the seventh respondent to conduct the said Diwali crackers Fair 2024 in the said place, the said order was also challenged by the appellant in W.P.No.31182 of 2024.

12. In the said E-tender notification, dated 13.09.2024, the Tamil Nadu Tourism Development Corporation Limited has invited e-tenders from the reputed Traders/Crackers Manufacturers/Event Managers, having the experience for Crackers Exhibition for conduct of iwali



W.A.No.3151 and 3153 of 2024

WEB COPY

Crackers Fair 2024. In the Annexure-I of the said tender notification, eligibility criteria were mentioned in Sl.No.1 to 10, specifying that the tenderer should have valid Explosive Licence (till 30.11.2024) for sale of Crackers from the Explosive Department, Government of India and also should furnish necessary documents, if the tenderer is a proprietary concern/limited company/partnership firm; and if the tenderer is a registered fireworks association, members of the association should be in the field of crackers sales and proof of valid registration certificate. According to us, when there was a specific eligibility criteria for the tenderer that they should have a valid explosive licence for sale of Crackers, the petitioner being an Association, it cannot be termed as a person and hence it cannot have such an Explosive licence, as sought for by the second respondent. However, the petitioner association was permitted to participate in the tender process and its technical bid was also accepted by the second respondent.

13. The learned Single Judge, after hearing both side and also by considering the consent of the appellant as well as the seventh respondent for the alternative proposal for conducting Diwali Crackers Fair 2024, as submitted by the learned Additional Advocate General before the writ



W.A.No.3151 and 3153 of 2024

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court, has disposed of the writ petitions as stated supra. In such circumstances, now the appellant has taken an U Turn and filed the instant writ appeals and once again argued the merits of the writ petitions. In our view, if at all the appellant is having any grievance on the orders passed by the learned Single Judge, which was made only after giving consent by both the parties on the revised proposal, he ought to have filed only review application before the Single Judge and not before this court by filing writ appeals.

14. Learned Additional Advocate General submitted that already, the order issued in favour of the seventh respondent to conduct the Diwali Crackers Fair 2024 was cancelled. He further submitted that, by following the order passed by the learned Single Judge in the writ petitions, the TUCS (Triplicane Urban Cooperative Society Ltd.,) has taken action for erecting the shops; and the terms and conditions as agreed between the TTDC (Tamil Nadu Tourism Development Corporation) and TUCS will be strictly followed.

15. Inview of the subsequent decisions (alternative proposal) taken



W.A.No.3151 and 3153 of 2024

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by the government, which was not challenged by the appellant, but agreed before the writ court, we are not inclined to interfere with the orders passed by the learned Single Judge. Further, it is made clear that if there is any difficulty in implementing the order of the Writ Court, liberty is granted to the parties concerned to approach the Court for modification of the order.

16. Accordingly, the writ appeals are dismissed as they are devoid of merits. Connected CMP Nos.24180, 24183, 24185, 24188, 24189 and 24190 of 2024 are closed.

(D.K.K, J.) (P.B.B., J.)

25.10.2024

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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.



W.A.No.3151 and 3153 of 2024

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W.A.No.3151 and 3153 of 2024

D.KRISHNAKUMAR, J.
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mst

W.A.No.3151 and 3153 of 2024

25.10.2024