



W.P(MD)No.3194 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.3194 of 2024

K.Thomotharan

.. Petitioner

-Vs-

1. The Director,
O/o. Directorate of Town Panchayat,
No.7th & 8th Floor,
Urban Administrative Office Campus,
Chennai-600 028.
2. The District Collector,
Dindigul District,
Dindigul.
- 3.The Assistant Director,
O/o. Assistant Directorate of Town Panchayat,
Dindigul District.
- 4.The Executive Officer,
Palayam Town Panchayat,
Dindigul District.

.. Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned notification passed by the 4th respondent in his



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proceedings in Na.Ka.No.27/2024/A2 dated 29.01.2024 and quash the same as illegal.

For Petitioner : Mr.C.Venkatesh Kumar

For Respondents : Mr.SRA.Ramachandran
Additional Government Pleader
for R1 to R3

: Mr.C.Satheesh
Government Advocate
for R4

ORDER

This writ petition has been filed to set aside the impugned notification passed by the 4th respondent in his proceedings in Na.Ka.No. 27/2024/A2 dated 29.01.2024.

2. The facts of the case is that the 4th respondent issued impugned auction advertisement notification in Na.Ka.No.27/2024 dated 29.01.2024 in and by which, the bidders are invited to participate in the auction. The 4th respondent intends to restrict the competition for one or other reasons. The said notification dated 29.01.2024 was only circulated on 02.02.2024. It is mandatory to publish the notification in the newspaper having wide circulation. But the 4th respondent purportedly issued the same on



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02.02.2024 in the local newspaper which does not have any wide circulation and the auction is scheduled to be held on 14.02.2024, the 15 days gap between the notification and the actual date of tender has been missed out. It is well settled law that the tender process should be done in a transparent manner and there is absolutely no justification in keeping it under the cloud. Hence, this petition.

3. The learned counsel for the petitioner submitted that the 4th respondent wantonly and wilfully has issued the impugned notification with ulterior motive in a local newspaper namely “Tamil Sudar” which does not have any wide circulation and hence, the tender proceedings itself is illegal and the same is in complete lack of transparency. To substantiate his submission, the learned counsel relied upon the judgment of the Hon'ble Supreme Court in the case of ***Nagar Nigam Meerut v. Al Faheem Meat Exports (P) Ltd.***, reported in **2006 (13) SCC 382**, wherein in paragraph No. 16, it has been held as follows:

“16. The law is well-settled that contracts by the State, its corporations, instrumentalities and agencies must be normally granted through public auction/public tender by inviting tenders from eligible persons and the notification of



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the public-auction or inviting tenders should be advertised in well known dailies having wide circulation in the locality with all relevant details such as date, time and place of auction, subject-matter of auction, technical specifications, estimated cost, earnest money Deposit, etc. The award of Government contracts through public-auction/public tender is to ensure transparency in the public procurement, to maximise economy and efficiency in Government procurement, to promote healthy competition among the tenderers, to provide for fair and equitable treatment of all tenderers, and to eliminate irregularities, interference and corrupt practices by the authorities concerned. This is required by [Article 14](#) of the Constitution. However, in rare and exceptional cases, for instance during natural calamities and emergencies declared by the Government; where the procurement is possible from a single source only; where the supplier or contractor has exclusive rights in respect of the goods or services and no reasonable alternative or substitute exists; where the auction was held on several dates but there were no bidders or the bids offered were too low, etc., this normal rule may be departed from and such contracts may be awarded through 'private negotiations'

In view of the above, the impugned notification having been passed by the 4th respondent without any proper and wide paper publication is illegal. Hence, the impugned notification is liable to be set aside.



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4. The learned Additional Government Pleader on instructions, would submit that the news paper “Tamil Sudar” which has been prescribed by the Government for publishing official news and hence, the PRO had published in the said newspaper. They agreed that there is a mistake committed by them, ie., there is only 12 days gap between the date of publishing and the date of auction due to which there cannot be any open competition by many other persons, who will be interested to participate in the said auction.

5. Considering the above aspects, this Court is inclined to quash the impugned proceedings in Na.Ka.No.27/2024/A2 dated 29.01.2024 issued by the 4th respondent and accordingly, the same is hereby quashed. The 4th respondent is directed to issue fresh notification and publish the same in any one of the newspapers, which is having wide circulation in that area by giving 15 days time between the date of tender and the date of auction.

6. With the above direction, this writ petition is allowed. No Costs.

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NCC : Yes/No
Index : Yes/No
Internet : Yes
PJJ



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V.BHAVANI SUBBAROYAN, J.

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