



W.P(MD)Nos.3173 to 3175

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.3173 to 3175 of 2024

and

W.M.P(MD)Nos.3132, 3136 & 3135 of 2024

Krishnamoorthy

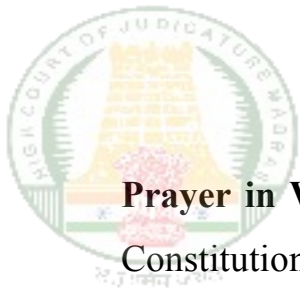
... Petitioner
in all the writ petitions

Vs

The Commissioner,
Tenkasi Corporation,
Tenkasi,
Tenkasi District.

...Respondent
in all the writ petitions

Prayer in W.P(MD)No.3173 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned re-tender notice issued by the respondent vide Na.Ka.No.2669/2023/A2, dated 05.02.2024 to auction in respect of collect the tax from the street vendors around the Tenkasi Town and quash the same as illegal and consequently direct the respondent to call for fresh tender in respect of to collect the tax from the street vendors around the Tenkasi Town for the period of 2024-2027 by complying with the provisions of Tamilnadu Tender Transparency act, 1998 and the Tamilnadu Transparency in Tender Rules, 2000.



Prayer in W.P(MD)No.3174 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned re-tender notice issued by the respondent vide Na.Ka.No.2669/2023/A2, dated 05.02.2024 to auction in respect of Public Paid Toilet for New Bus Stand, Tenkasi and quash the same as illegal and consequently direct the respondent to call for fresh tender in respect of bus entry fees in new Bus stand Tenkasi for the period of 2024-2027 by complying with the provisions of Tamilnadu Tender Transparency Act, 1998 and the Tamilnadu Transparency in Tender Rules, 2000.

Prayer in W.P(MD)No.3175 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned re-tender notice issued by the respondent vide Na.Ka.No.2669/2023/A2, dated 05.02.2024 to auction in respect of Bus Entry Fees for New Bus Stand, Tenkasi and quash the same as illegal and consequently direct the respondent to call for fresh tender in respect of bus entry fees in new Bus Stand, Tenkasi for the period of 2024-2027 by complying with the provisions of Tamilnadu Tender Transparency Act, 1998 and the Tamilnadu Transparency in Tender Rules, 2000.

For Petitioner : Mr.I.Velpradeep

For Respondent : Mr.P.Aathimoola Pandian

COMMON ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus to quash the impugned re-tender notice issued by the respondent vide Na.Ka.No.

2669/2023/A2, dated 05.02.2024 for various works in and around the Tenkasi Town



for the period of 3 years from 2024-2027 vide his auction notice in Na.Ka.No. 2669/2023/A2, dated 12.01.2024.

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2. By consent, these writ petitions are disposed of at the admission itself.

3. Heard Mr.I.Velpradeep, learned counsel appearing for the petitioner and Mr.P.Aathimoolapandian, learned counsel, who takes notice for the respondent.

4. The case of the petitioner is that the respondent Corporation issued a tender notification for various works in and around the Tenkasi Town for the period of 3 years from 2024-2027 vide his auction notice in Na.Ka.No.2669/2023/A2, dated 12.01.2024 in Dinakaran through public daily and informed that the auction to be held on 31.01.2024 at 11.30 a.m. The respondent announced in the notice that the auction should held by open tender and close tender. The petitioner participated in the tender for collecting the tax from the street vendors around the Tenkasi Town by depositing the auction security amount of Rs.1,50,000/- by the conditions imposed by the respondent. But one Sheik Ali was selected as highest bidder by closed tender and the highest bid amount is Rs.10,35,000/-. Thereafter, as per the condition No.12 imposed by the respondent in the tender notification in the above said auction, one Habibullah paid the excess amount of Rs.1,000/- to the highest bid amount paid by the successful bidder Sheik Ali. As per the condition No.12, the respondent having



power to cancel the earlier tender and having power to announce the re-tender by depositing higher amount by the participants i.e., excess of successful bid amount.

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Based on the said condition, one Habibullah paid Rs.10,36,000/- within 24 hours. Therefore, the respondent cancelled the earlier tender held on 31.01.2024 and issued a re-auction notice vide Na.Ka.No.2669/2020/A2, dated 05.02.2024. The respondent without following the parameter set out in the Tamilnadu Tender Transparency Act, 1998 and without giving re-paper publication and without giving an opportunity by closed tender, issued the impugned re-auction notice without giving an opportunity to the public. As per the auction report, conditions of the respondent is that the auction let must be in two types one is open type another one is closed type, but in the impugned re-auction notice only open tender alone is given by the respondent. Therefore, the impugned order is liable to be set aside on the sole ground.

5. The learned counsel appearing for the respondent would submit that the petitioner has not participated in the said auction and only 4 persons were participated and one Sheik Ali has quoted highest bid of Rs.10,35,000/-. Thereafter, one Habibullah paid the excess amount of Rs.1,000/- to the highest bid amount paid by the successful bidder Sheik Ali. As per the condition No.12, the respondent having power to cancel the earlier auction and having power to announce the re-tender by depositing higher amount by the participants i.e., excess of successful bid amount. Now, the petitioner states that the authorities should give fresh paper



publication. The said submission it not accepted since the petitioner has not even participated in the tender and has not quoted any bid amount and now, he cannot stalled the proceedings. The petitioner is not even come under the zone of consideration. The amount claimed by the other persons are more than 10 lakhs and it would be beneficial to the Municipality and there is no need to quash the re-tender notice issued by the respondent, dated 05.02.2024. The petitioner only participated in the auction in respect of Public Paid Toilet for New Bus Stand, Tenkasi, but not quoted the any highest amount and in that only the petitioner is eligible to participate in the re-tender auction.

6. It is seen from the impugned order that for collection of entry fee for the year 2024-2025 auction was held. As per the tender notice, four persons were participated in the tender. In that tender, one Sheik Ali has taken auction for a sum of Rs.8,50,000/- and there was no other persons claiming any amount. Only Sheik Ali participated and quoted more money of Rs.10,35,000/-. In the meanwhile, one Habibullah in his application has quoted a sum of Rs.10,36,000/- and has paid the said amount and seeking to re-tender. As per his request, re-tender scheduled to be held on 13.02.2024 at 11.00 a.m.,

7. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel appearing for the respondent, this Court is



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not inclined to quash the impugned re-tender notice issued by the respondent in Na.Ka.No.2669/2023/A2, dated 05.02.2024. If the petitioner is willing to participate in the re-tender scheduled to be held on 13.02.2024, he can participate in the tender in respect of auction in Public Paid Toilet for New Bus Stand, Tenkasi in W.P(MD)No.3174 of 2024. The authorities are directed to proceed with the auction scheduled to be held on 13.02.2024 without waiting for the order copies. The learned counsel for the respondent is directed to communicate the above said order through SMS or through E-mail to the said authorities immediately, so as to enable the authorities to conduct the auction.

8. With the above observations and directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes/No
Internet : Yes/No
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12.02.2024

Note:Issue Order Copy on 13.02.2024.



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V.BHAVANI SUBBAROYAN, J.

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