



W.P(MD)No.5580 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 30.09.2024**  
**(Reserved on 07.08.2024)**

**CORAM :**

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**  
**and**  
**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.5580 of 2023**  
**and**  
**W.M.P(MD)Nos.5210 and 5211 of 2023 & 9098 of 2024**

G.Dhanabalan

... Petitioner

vs.

1. The Additional Secretary to Government,  
Municipal Administration Department,  
Secretariat,  
Chennai-09.

2. The Commissioner  
Dindigul City Municipal Corporation,  
Dindigul.

3. The Mayor,  
Dindigul City Municipal Corporation,  
Dindigul.

4. K.Vignesh

5. R.Amaladevi

6. N.Nallamani

7. K.Muniyandi

8. S.Raja



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9. A.Rupanraj

10. M.Sharmila

... Respondents

(R4 to R10 are impleaded vide court order dated 03.07.2023 in WMP(MD)No. 5870/2023)

**Prayer :** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records with regard to the impugned of the impugned Agenda Resolution No.99 passed by the 3<sup>rd</sup> respondent dated 30.01.2023 and quash the same as null and void and consequently directing the 2<sup>nd</sup> and 3<sup>rd</sup> respondent to conduct auction to all the 34 shops that are situated in Kamarajar Bus Stand, Dindigul City Municipal Corporation, afresh in accordance with the provisions of Tamil Nadu Transparency in Tenders Act 1998 (Act 43 of 1998) within the time frame stipulated by this Court.

|                |                                                                                     |
|----------------|-------------------------------------------------------------------------------------|
| For Petitioner | : Mr.N.Anantha Padmanabhan, Senior Counsel<br>for M/s.APN Law Associates            |
| For R1         | : Mr.P.Thilakkumar, Government Pleader                                              |
| For R2         | : Mr.P.Veera Kathiravan<br>Additional Advocate General assisted by<br>Mr.J.Lawrance |
| For R3         | : Mr.M.Thirunavukkarasu                                                             |
| For R4 to R10  | : Mr.B.Saravanan, Senior Counsel for<br>Mr.S.Ramsundar Vijayaraj                    |



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## **ORDER**

WEB COPY (Order of the Court was made by **R.SUBRAMANIAN, J.**)

The prayer in the writ petition reads as follows:

*"To issue a Writ of Certiorarified Mandamus, to call for the records with regard to the impugned of the impugned Agenda Resolution No.99 passed by the 3<sup>rd</sup> respondent dated 30.01.2023 and quash the same as null and void and consequently directing the 2<sup>nd</sup> and 3<sup>rd</sup> respondent to conduct auction to all the 34 shops that are situated in Kamarajar Dindigul City Municipal Corporation Bus Stand, afresh in accordance with the provisions of Tamil Nadu Transparency in Tenders Act 1998 (Act 43 of 1998) within the time frame stipulated by this Court."*

2. The petitioner who is a Municipal Councilor elected from Ward 14 of the Dindigul Municipal Corporation has come up with this writ petition with the above prayer complaining of several irregularities in the conduct of auction for lease of shops belonging to the Municipal Corporation constructed in the municipal bus stand. There are 34 shops which are to be used for commercial purposes situate within the bus stand at Dindigul. The rent from these shops is one of the major revenues for the Municipal Corporation. The right to carry on business in these shops is normally granted by conduct of public auction to the highest bidder at the said auction. The petitioner would claim that the auction



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of the right to carry on business in these shops which was held on 28.12.2022

was not done in a fair manner. According to him, there was no publicity of the notification regarding auction. The petitioner would claim that the provisions of the Tamil Nadu Transparency in Tenders Act, 1998, would apply and the fact that the provisions are not followed would render the entire auction process illegal. Even otherwise, according to the petitioner, since there was absence of wide publicity for the tender cum auction, it did not attract many bidders. The fact that only 47 persons had presented 66 bids for the 34 shops which would show that the very auction was conducted without wide publicity in a hushed up manner and chosen persons were granted the privilege of running commercial establishments in the shops in the bus stand. Though the writ petition proceeded on the footing that the provisions of the Tamil Nadu Transparency in Tenders Act, 1998, would apply, the grievance of the petitioner in essence was that due to lack of wide publicity to the auction, it had not attracted many bidders resulting in depleted revenues to the Corporation.

3. A counter has been filed by the Commissioner (In-charge) of the Dindigul Municipality contending that the provisions of the Tamil Nadu Transparency in Tenders Act, 1998, would not apply and as such, the auction which was held after proper publication of notice, cannot be said to be illegal. It was contended that the auction notice was published in a world renowned



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newspaper called, Pirpagal (Afternoon) having Nil circulation in Dindigul District. The earlier auction was cancelled by the resolution of the Municipal Council on 17.11.2022 as the successful bidders had not made the pre-deposit required. After the cancellation, all the shops were brought for re-tender on 05.12.2022. Since there were no bidders, the auction was postponed to 16.12.2022. Since there were no bidders on that day also, the auction was postponed to 29.12.2022. On 29.12.2022, 66 bids were placed and since nobody participated in the public auction, the bids were opened and the highest bidders were allotted the shops. The then Commissioner of the Municipality had issued orders of allotment to the highest bidders on the basis of the consent given by the Mayor on 30.12.2022 and 12.01.2023, in anticipation of the consent of the Municipal Council, ultimately, the proposal was placed before the Council in its meeting on 30.01.2023 and the same was approved. It is also claimed that there has been no violation in the allotment. The fact that the tender amount in the subsequent auction was lesser than the amount offered in the previous auction which was cancelled, was sought to be justified by claiming that the previous tenderers have not come forward to take the shops on lease by paying the pre-deposit.

4. We have heard Mr.N.Anantha Padmanabhan, learned Senior Counsel appearing for the petitioner, Mr.P.Thilakkumar, learned Government



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Pleader appearing for the 1<sup>st</sup> respondent, Mr.P.Veera Kathiravan, learned Additional Advocate General assisted by Mr.J.Lawrance, learned counsel for the 2<sup>nd</sup> respondent, Mr.M.Thirunavukkarasu, learned counsel appearing for the 3<sup>rd</sup> respondent, Mr.B.Saravanan, learned Senior Counsel for Mr.S.Ramsundar Vijayaraj, learned counsel for the respondents 4 to 10.

5. The local authorities earn revenue from leasing out the shops situate in the bus stand and other shopping complexes. The said income is the major source of revenue for the local bodies. So, the ultimate object should be to ensure proper revenue to the local authority. Though an auction was conducted and the tenders were called for on 16.11.2021, the highest bidders did not pay the pre-deposit amount and eventually, the auctions were cancelled on 17.11.2022. The newly constructed shops remained closed for nearly a year even at that time. Thereafter, a fresh auction was held according to the Commissioner on 29.12.2022, but the date of auction is shown as 28.12.2022 in the proceedings of the Council held on 30.01.2023. It is claimed in the counter affidavit that the auction was originally notified on 05.12.2022 and due to want of bidders, it was postponed to 16.12.2022 and again, it was postponed to 29.12.2022. The counter affidavit is silent about the manner in which the publications were effected. Except claiming that the Tamil Nadu Transparency in Tenders Act, 1998, would not apply, the Commissioner has not come forward



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to disclose the details of the publications effected in order to give wide publicity to the auction as it often happens.

6. The officer who had been the Commissioner of the Corporation at the relevant point of time has retired and it is only the Commissioner (In-charge) who has filed a counter affidavit before us, that too belatedly after this Court had observed that no counter affidavit has been filed almost for a year since the date of the interim order. We had already observed in the interim order dated 15.03.2023 that the publication was made in the Coimbatore Edition of a daily named, Pirpagal (Afternoon), which has no circulation in Dindigul town. The distance between Coimbatore and Dindigul is about 153 kilometers. While Coimbatore is situate almost on the western extremity of the State, Dindigul is in the centre near Madurai. The publication of an advertisement in a Coimbatore Edition of a newspaper that too for auctioning a very valuable right to carry on business in the shops constructed in the municipal bus stand at Dindigul, in our considered opinion, could be only with a view to prevent large scale participation. Though it is claimed that 66 persons participated in the tender, the records reveal that it was only 47 persons who placed 66 bids. The bid amounts are lesser than the bid amounts that were quoted by the bidders in the auction that was held in the year 2022. We also find that the action of the then Commissioner of the Municipal Corporation is



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very curious. He had confirmed the auction and issued the letters of allotment to the bidders even before the Council could accord its approval for the auction that was held on 29.12.2022 or 28.12.2022. The records reveal that the Municipal Council approved the auction only on 30.01.2023, whereas, the Municipal Commissioner issued orders of allotment even on 12.01.2023. In the counter affidavit, it is claimed that it was done with the approval of the Mayor. We find such explanation very flimsy. In our order dated 15.03.2023, we have very specifically observed that the publication was made in a very insignificant newspaper which has no circulation at all. No attempt is made by the Commissioner (In-charge) who has filed the counter affidavit to explain as to what was the circulation of the daily in Dindigul area. There is not even a claim that the daily called, 'Pirpagal' has some circulation in Dindigul area. We had also enjoined the Commissioner from handing over the shops to the successful bidders. The shops now remain closed and the successful bidders have not been handed over the shops. Some of them have at their instance been impleaded in this writ petition.

7. When the assets of the State or local bodies, are dealt with, the minimum that should be ensured is that they are not frittered away by the persons in power. The medium of public auction for granting those rights is considered to be the best method, by which, autocratic actions of the people in



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power could be avoided. Unfortunately, the people in power with the active connivance of the officers namely, the Executive, even find out the ways and means to convert public auctions into private treaties and barter away the valuable assets to a chosen few for a very meagre amount. If this Court refuses to interfere when such glaring malpractices brought to its' notice, it will amount to failure of duty by this Court. Once it is found that the publication was made properly and the Commissioner has acted in great haste in passing allotment orders without the approval of the Council, the least this Court could do is to set aside the auction and direct re-auction after wide publicity.

8. We, therefore, do not have the slightest hesitation to conclude that the entire auction process that resulted in passing of allotment orders and the resolution dated 30.01.2023 will have to be set aside. The writ petition therefore, stands allowed. The entire auction process culminating in the resolution dated 30.01.2023 is set aside. There will be a direction to the Municipal Commissioner, Dindigul, to conduct a fresh auction by making publication in newspapers having wide circulation in Dindigul area and allot the shops to the successful bidders. Any attempt to stifle the auction process or convert it into a private treaty will be viewed seriously. Since Mr.Sivasubramanian who was the Commissioner of the Municipal Corporation during December 2022, the king pin of the entire drama (public Auction Dt.



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29-12-2022/28-12-2022) has retired, we are not imposing any cost on the

Corporation, as it will result in further depletion of its revenue. No costs.

Consequently, connected miscellaneous petitions are closed.

(R.S.M, J.) (L.V.G, J.)  
30.09.2024

Index : Yes / No  
Neutral Citation : Yes / No  
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To

1. The Additional Secretary to Government,  
Municipal Administration Department,  
Secretariat,  
Chennai-09.

2. The Commissioner  
Dindigul City Municipal Corporation,  
Dindigul.

3. The Mayor,  
Dindigul City Municipal Corporation,  
Dindigul.



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**R.SUBRAMANIAN, J.**  
**and**  
**L.VICTORIA GOWRI, J.**

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**PRE-DELIVERY ORDER MADE IN**  
**W.P(MD)No.5580 of 2023**  
**DATED : 30.09.2024**