



W.A(MD)No.668 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESHKUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.668 of 2024
and
CMP(MD)Nos.4861 and 4862 of 2024**

L.Murugan

... Appellant

vs.

1. The Managing Director,
Tamilnadu Cooperative Milk Producers Union Limited,
Nandhanam,
Chennai-35.

2. The General Manager,
Marketing,
Tirunelveli District Cooperative Milk Production Union Ltd.,
Reddiarpatti Road,
Perumalpuram Post,
Tirunelveli-07.

3. The Manager,
Marketing,
Tirunelveli District Cooperative Milk Production Union Ltd.,
Reddiarpatti Road,
Perumalpuram Post,
Tirunelveli-07.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 12.03.2024 made in W.P(MD)No.5739 of 2024.



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For Appellant : Mr.I.Pinaygash
For Respondents : Mr.J.Devasenan

JUDGMENT

(Judgment of the Court was made by **R.SURESHKUMAR, J.**)

This appeal has been directed against the order passed by the Writ Court dated 12.03.2024 made in W.P(MD)No.5739 of 2024.

2. The appellant/petitioner claimed to have been the vendor of milk which are being supplied by the 3rd respondent namely, Tirunelveli District Cooperative Milk Production Union Limited. It is also claimed by the appellant/petitioner that, he had been doing the vending business of milk with the 3rd respondent for the past 19 years. Though every second year, it should have been given by calling tender in open auction or tender system, somehow, the appellant had been continuing for the past 19 years and last such renewal has been made, for which, a sum of Rs.1,000/- had been received as agent renewal fee on 27.09.2022, under which, the period covered is from 01.10.2022 to 30.09.2024.

3. Despite the period is covered upto 30.09.2024, the 2nd respondent had come forward to issue a tender notification dated 22.02.2024 published in



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online, pursuant to the proceedings dated 01.11.2023 issued by the 2nd respondent, based on the proceedings of the 3rd respondent dated 31.10.2023.

Therefore, questioning the same and to seek quashment of the same, the appellant/petitioner had moved the writ petition in W.P(MD)No.5739 of 2024.

4. The said writ petition having been considered, was rejected by the Writ Court, by order dated 12.03.2024, as against which only, the present appeal has been directed.

5. Assailing the said order passed by the Writ Court, Mr.I.Pinaygash, learned counsel appearing for the appellant, would submit that, firstly, the period of agency continues with the appellant/writ petitioner upto 30.09.2024, for which, renewal fee has already been received by the 3rd respondent on 27.09.2022 and a receipt of which, also has been filed in the typedset of documents.

6. Therefore, the learned counsel would submit that, at least till 30.09.2024, no tender notification should be issued calling tenders from any third parties.



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7. Secondly, the learned counsel raised the point that, insofar as The Tamil Nadu Transparency in Tenders Rules, 2000, is concerned, sub-rule (3) to Rule 11 under the heading, 'Publication of Notice Inviting Tenders in Newspapers', says that in cases where publication of Tender Inviting Notice is to be done only in newspapers with circulation within the district, the Information and Public Relations Officer attached to the District Collectorate shall be the competent authority to release the advertisement and also such tender notification should be issued in two daily newspapers one in English and another one is in vernacular. If these are all the rules called, The Tamil Nadu Transparency in Tenders Rules, 2000, in violation of the said rules, without any paper publication having been made and assuming that if any paper publication having been made, no such paper publication has been issued in the district, that means, the paper where the notification issued since does not have any circulation in the district concerned, such a notification, if any, issued as claimed by the respondents through the two newspapers, shall not meet the requirement of Rule 11. Therefore, on that ground also, the tender notification is liable to be interfered with, he contended.

8. On the other hand, learned standing counsel appearing for the respondents, on instructions, would submit that, the tender notification had



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been issued by E-portal also. That apart, it has been published in one Tamil daily and one English daily. The photocopy of the paper cutting carrying the said notification published in Tamil and English newspapers had also been produced by the learned counsel appearing for the respondents. Relying upon these documents, learned counsel for the respondents would contend that, as per the Tamil Nadu Transparency in Tenders Rules, 2000, paper publication has been given with a tender notification both in English and vernacular daily and insofar as the point raised by the petitioner that it does not have the circulation in Tirunelveli District is concerned, it has been issued as a State Edition. Therefore, the papers since have the circulation throughout the Tamil Nadu, it will cover the district of Tirunelveli also.

9. With regard to the licencing period which expires only on 30.09.2024 is concerned, the learned counsel would contend that, such a renewal normally would be given only pending of initiating the process to go for tender and find out the successful bidder for the further or successive period to have the vendorship.

10. Merely because the renewal fee has been received quoting a period to be covered under the renewal fee, it does not give any wholesale right to the



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appellant to seek indulgence against the respondents to go for tender process inviting tender to find out the suitable vendor to whom or in his favour, the vending licence would be given for the next licencing period.

11. We have considered the said rival submissions made by the learned counsel appearing for both sides and also have perused the materials placed before this Court.

12. In fact, the points raised herein had been raised before the Writ Court also. The learned Judge having considered the rival submissions made by both sides, had found that the appellant was appointed as a distributor way back in April 2005 and he had been carrying on the work of milk distribution ever since. Though it is true that the receipt dated 27.09.2022 gives an impression that the agency renewal fee was accepted from the appellant, the issuance of such receipt by the 2nd respondent will not confer any legal right on the appellant/petitioner as such. The learned Judge has given further reasoning that, the respondents are the State Instrumentalities. Therefore, when they invite tenders and if the appellant/petitioner had been appointed as a Contractor through a tender and during the subsisting contractual period, a new tender notice has been issued, the Writ Court will be justified in interfering with the same.



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13. However, in the present case, the appellant/petitioner had not been continuing pursuant to the successful bidder in a tender process, but he had been somehow or other was able to continue from the year 2005 uninterrupted, for the reasons best known to the respondents.

14. Be that as it may, now the tender process has begun and the technical bid of the tender will be opened by tomorrow(03.04.2024). At this juncture, the appellant/petitioner has stated that at least till September 2024, the period, for which, renewal of licence fee since has been collected by the respondents, tender process shall not be proceeded to.

15. The said submission made by the appellant/petitioner is liable to be rejected for the simple reason that the appellant/petitioner is not the successful bidder to continue his contract period upto September 2024. It is only a stopgap arrangement that has been made by the respondents where the licence has been renewed only till alternative arrangement is made, because, the fixed fee already been made alone had been collected from the appellant/petitioner. However, if the tender is finalised, the highest bidder alone would be selected and in whose favour only, the licence will be extended, by which, the



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respondents would fetch more income. Therefore, the 3rd respondent though instrumentality of the State, being a commercial venture, cannot be put under disadvantageous position, under which, they would be put under loss at the cost of the 3rd respondent where the appellant/petitioner wants to gain.

16. This kind of unholy demand cannot be accepted by a Court of Law. This, in fact, has been indicated by the learned Judge in the order dated 12.03.2024, which is impugned herein.

17. Insofar as the alleged violation of Rule 11 of the Tamil Nadu Transparency in Tenders Rules, 2000, is concerned, the respondent counsel has produced the copy of the paper publication made in both English as well as Tamil vernacular and the English daily where the publication had been given is having the Chennai Edition which will have the circulation throughout Tamil Nadu. Therefore, it cannot be stated that the paper, in which, such a notification has been given does not have the circulation in the district concerned.

18. Moreover, if we look at the Tamil Nadu Transparency in Tenders Rules, 2000, especially, the language used in sub-rule (3) of Rule 11, that, in



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cases where publication of tender notice is to be done only in newspapers, that means, if the tender notice is expected to be done in newspapers, then only, the procedure that has been contemplated under sub-rule (3) of Rule 11, has to be scrupulously and strictly followed.

19. In the present case in hand, even though such kind of strict observance is not required, despite that, the respondents have scrupulously followed the same by issuing notification in the two newspapers. Therefore, to that extent also, the ground raised by the appellant/petitioner alleging that, Rule 11 of the Tamil Nadu Transparency in Tenders Rules, 2000, is violated, also cannot be countenanced.

20. Therefore, looking from any angle, the appellant/petitioner is not entitled to stall the tender process which has already begun and it is going to be opened by tomorrow(03.04.2024). Therefore, at this juncture, no indulgence can be shown by this Court, of course, for all these reasons stated herein above, apart from the reasons given by the learned Judge in the impugned order.

21. Hence, the order impugned passed by the learned Judge is to be sustained. Accordingly, it is sustained. As a sequel, this Writ Appeal fails.



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Hence, it is dismissed. However, there shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

(R.S.K., J.)

(G.A.M., J.)

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Index : Yes / No

Neutral Citation : Yes / No

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