



W.P.(MD)No.17587 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.17587 of 2024
and
W.M.P.(MD)Nos.15114 & 15115 of 2024**

Perumagalur Town Panchayat,
Represented by its Executive Officer R.Kumaresan.

... Petitioner

Vs.

1.The Inspector,
Hindu Religious & Charitable Department,
Peravoorani,
Thanjavur.

2.The Executive Officer,
Arulmigu Somanatha Swamy Thirukovil,
Perumagalur,
Peravoorani Taluk,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned tender notification issued by the respondents vide proceedings Nil dated 24.07.2024 (published in the Daily Thanthi on 24.07.2024) and quash the same as illegal.



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For petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For respondents : Mr.P.T.Thiraviam
Government Advocate for R1
Mr.S.Chandrasekar
Standing Counsel for R2

ORDER

Heard learned counsel for the petitioner, learned Government Advocate for the first respondent and learned Standing Counsel for the second respondent.

2. The petitioner has challenged the impugned auction notice dated 24.07.2024 issued by the second respondent proposing to auction the rights to collect lotus flowers from the pond namely, Thirukulam, which is situated opposite to the second respondent/Temple.

3. The learned counsel for the petitioner submits that the Temple pond (Thirukulam) belongs to the petitioner/Town Panchayat and all along the pond has been classified as a Sarkar Poramboke in the register maintained by the Revenue Department.



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4. The petitioner has also drawn attention to various auction notices dated 16.02.2012 for a period between 2012-13, auction notice dated 12.01.2021 for a period between 2021-22, auction notice dated 17.03.2022 for a period between 2022-23 and auction notice issued on 19.04.2022 for a period between 2023-24.

5. It is submitted that the last auction, that was proposed to be held pursuant to the auction notice dated 02.02.2024, on 19.02.2024 was cancelled as the pond in question (Thirukulam) is under renovation by the petitioner/Town Panchayat under the scheme of Kalaingar Nagarpura Membattu Thittam.

6. It is submitted that the second respondent has no *locus* to auction the rights to collect the lotus flowers in the pond.

7. On the other hand, the learned Standing Counsel for the second respondent submits that the second respondent/Temple is an ancient temple and that the pond belongs to the Temple and a larger issue is still pending before the Hon'ble Division Bench of this Court as to whether the water bodies which vested with the Temple, could be rightly vested with the various local authorities,



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pursuant to the 1948 Act and 1963 Act.

8. That apart, the learned Standing Counsel for the second respondent would draw attention to Section 137 of the Tamil Nadu Panchayat Act, 1994 and would submit that vesting of communal property or income in village panchayat, the village panchayat can vest the same only if it was declared by the Government. It is submitted that there are no Government orders vesting the said pond (Thirukulam) with the petitioner/Town Panchayat.

9. That apart, it is submitted that if the lotus from the Temple pond, is not harvested by the second respondent, it will neither benefit the petitioner nor the second respondent and therefore, the second respondent may be allowed to proceed to auction the right to harvest the lotus in the subject pond as otherwise will be pluck by villagers which will neither benefit the petitioner nor the second respondent/Temple.

10. Having considered the submissions made by the learned counsel for the petitioner, learned Government Advocate for the first respondent and learned



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Standing Counsel for the second respondent, the Court is of the view that the impugned auction notice, *prima facie* seeks to usurp the rights of the petitioner and that to by giving just 7 days for auctioning the rights. It also appears to be contrary to the mandates of Tamil Nadu Transparency in Tender Act, 1998.

11. That apart, there are overwhelming records, indicates that the pond in question vested with the petitioner/Town Panchayat. An auction was proposed to be held on 19.02.2024 by the petitioner/Town Panchayat pursuant to the auction notice 02.02.2024. It was purportedly deferred on account of the renovation work being carried out by the petitioner. In view of the above, the impugned auction notice dated 24.07.2024 issued by the second respondent is quashed.

12. The petitioner/Town Panchayat is however directed to ensure that the lotus is harvested and is supplied to the second respondent/Temple for its rituals pending auction of right by it. The petitioner shall supply required number of lotus flowers to the second respondent/Temple and shall auction the balance.



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This Writ Petition is allowed with above directions. No costs.

Consequently, connected miscellaneous petitions are closed.s

Index : Yes / No

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Internet : Yes / No

apd

To

1.The Inspector,
Hindu Religious & Charitable Department,
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C.SARAVANAN, J.

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