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W.P.(MD) No.19185 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD) No.19185 of 2023

R.Ramasubramaniam

... Petitioner

-vs-

- 1.The State of Tamil Nadu
rep.by the Principal Chief Secretary
Municipal Administration &
Water Supply Department
Fort St.George, Chennai-600 009
- 2.The Director of Town Panchayat
O/o.The Town Panchayat
Raja Annamalaipuram
Chennai-600 028
- 3.The Director
Local Fund Audit
K.Anbalagan Maaligai
4th Floor, Nandanam
Chennai-600 035
- 4.The District Collector
Tirunelveli District



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5.Mahin Abubaker

6.Kutralingam

7.Christopher Doss

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 4 to conduct an enquiry against the Formerly Assistant Directors of Town Panchayat namely Mr.Mahin Abubaker, now Assistant Director (Town Panchayat) at Thiruvallur District, Mr.Kutralingam (Retired) and formerly Executive Officer, Vadakku Valliyoor Town Panchayat and Incharge Executive Officer for Panagudi Special Grade Town Panchayat, namely, Christopher Doss (Now Executive Officer at Shankar Nagar, Town Panchayat, Tirunelveli District) who caused loss to the tune of Rs.5,93,198/- to the Vadakku Valliyoor and Panagudi Special Grade Town Panchayats by considering the petitioner's representation dated 13.06.2023 and 14.06.2023 and pass appropriate orders in this regard, within the time stipulated by this Court.

For Petitioner : Mr.VR.Venkatesan

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.P.Thilakkumar
Government Pleader for R1 to R4, R6 & R7
No appearance for R5



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ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Prayer in this writ petition is to direct the respondents 1 to 4 to conduct an enquiry against the respondents 5 to 7, who have caused loss to the tune of Rs.5,93,198/- to Vadakku Valliyoor and Panagudi Special Grade Town Panchayats, by considering the petitioner's representations dated 13.06.2023 and 14.06.2023 and pass appropriate orders, within the time stipulated by this Court.

2. The District Collector, Tirunelveli District / fourth respondent has filed a counter affidavit, wherein in Paragraph Nos.3 to 9, he has stated as follows:

“3) I humbly submit that based on the order of the Hon'ble Court, the petitions and relevant relevant records available were examined. The petitioner has alleged in his petition that the 7th respondent has allegedly procured 1 no of LED TV at a higher rate and the 5th respondent had allegedly given administrative sanction for procurement at such a higher rate thereby causing a loss to the extent of Rs.2,96,599/- to Panagudi Town Panchayat.



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- 4) *In this regard, the relevant file, Na. Ka. No. 547/2021 dated 02.12.2021 of Panagudi Town Panchayat was examined. The statement of 7th respondent was received. The statement of 5th respondent could not be taken due to paucity of time. The petitioner was asked to give his statement on 25.08.2023. He did not appear to give a statement, citing short notice. The contents of his petition were taken as his written submission for the preliminary Inquiry.*
- 5) *On examination of the files, it was found that the estimated rate for procurement of LED TV was prepared based on the annual maintenance rate contract rates fixed for LED TV vide resolution No. 566 of Panagudi Town Panchayat dated 20.01.2022. It is not that only LED TV was procured but the tender was for Sony 40" inches LED TV, conference camera with speaker and inbuilt microphones, Set Top box, video conferencing software, CPU for the TV and all other installations and inclusive 28% GST. Based on the estimated rate, tender No.547/2021 dated 02.12.2021 was called by the Executive Officer, Panagudi Special Grade Town Panchayat. The bids were opened on*



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16.12.2021, wherein 2 bids were received. One M/s. The Kasthuri Traders, 1333DA/6, Annai Theresa Nagar, Manthiri thoppu Road, Kovilpatti is seen to have quoted a total cost of Rs.3,96,599/- and M/s.Maha Lakshmi Traders, TS No.294/2 North Main Road Marakkadi Road, Pudukottai has quoted a sum of Rs.4,01,050. Based on the above comparative statement, approval was obtained on 16.12.2021 from Special Officer and Assistant Director, Town Panchayats, Tirunelveli.

- 6) It is humbly submitted that as per the files, work orders were Issued by the 7th respondent to the lowest bidder, ie, M/S Kasthuri Traders, 16.12.2021. The supply bill dated 21.12.2021 was seen in the file. The received goods were taken in stock and entered in the stock register on 21.12.2021. The above were ratified in the Council Meeting dated 20.01.2022 vide resolution no.566. The Special Officer and Assistant Director, Town Panchayat vide his proceedings dated 22.12.2021 has approved the payment of the bills and the same was paid to the supplier vide Bank Payment Voucher No.721 dated 22.12.2021 by the 7th respondent.



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7) *I humbly submit that the 7th respondent in his written submission before the District Collector, Tirunelveli, has stated that as per the instructions given by the Director of Town Panchayats and Assistant Director of Town Panchayats during a review meeting, the said tenders were floated by him with due approval of his higher officials. He has also stated that similar process has been undertaken at all other Town Panchayats in the District during that time. During the inquiry he could not produce any written Instruction or order in this regard. He stated that it was done in all Town Panchayats based on oral instructions issued during the meeting. He has alleged that only because of a personal vengeance, the petitioner has been repeatedly targeting him. He has submitted that he has committed no wrong and has only followed the instructions and executed the work as directed by his higher officials, in the same manner as done at many other Town Panchayats at that time. He has submitted that the procurement was made in urgency during covid time, when there was lock down and restrictions and many supply chain constraints. It was stated that the procurement was made as it was very urgent to establish a state wide VC system to get instructions from State Head*



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Quarter for undertaking various prevention and other public health activities.

- 8) *It is humbly submitted that in order to verify the claims made by the 7th respondent, records pertaining to the tender floated for the procurement and maintenance of LED TV by some other Town Panchayats in the same period were examined. It is found that the purchases took place during covid due to the pandemic and lock down period and Veeravanallur, Gopalasamudram, Cheranmahadevi and Melaseval Town Panchayats have also procured LED TV and VC equipment at a similar price only at that time. The availability of a detailed scheduled of rate for such item at State level at that time, cost incurred by Town Panchayats of other Districts in the State at that time, complete details of instructions issued at that time etc., could not be ascertained as they are above the scope of this office.*
- 9) *It is humbly submitted that from the above preliminary inquiry and based on the documents perused within the available timeline, it is seen that the 6th respondent has made the procurement as per the rates already approved and followed at many other Town Panchayats in the District at that time*



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and has acted as per the instructions of his higher officials at each and every stage. Hence, he may not be at fault for proceeding with a due procurement process based on the rates already approved and are in place at that time. The preliminary report has been sent to the Directorate of Town Panchayat for further course of action in this regard.”

3. In view of the above, no further adjudication is required in this writ petition and the same is, therefore, dismissed. No costs.

[D.K.K., J.]

[R.V., J.]

03.01.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

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Municipal Administration &
Water Supply Department,
State of Tamil Nadu,
Fort St.George, Chennai-600 009,
- 2.The Director of Town Panchayat,
O/o.The Town Panchayat,
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