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Arb O.P(COM.DIV.) No. 180 of
2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb O.P(COM.DIV.) No. 180 of 2025

AND

OA NO. 949 OF 2024

National Federation of Farmers
Procurement Processing Retailing Co
operative India Ltd(NACOF),
a Cooperative Society,registered under
Ministry of Agriculture and
Cooperatives,Govt. of India,
Represented herein by its
State Manager, Mr. N. Gurusamy,
at No.5/1 and 5/2, A, 1st Floor,
Gopalamenon Road,
Kodambakkam, Chennai-600024.

Petitioner

Vs

1. The Managing Director,
Tamilnadu Civil Supplies
Corporation,(TNCSC0 CMRL Admin
Building,Poonamallee High Road,
Koyambedu,Chennai-107.



WEB COPY

Arb O.P(COM.DIV.) No. 180 of
2025



2.The Commissioner

The Commissioner, Commissionerate
of Civil Supplies, Ezhilagam, Chepauk,
Chennai 600 005.

3.The Deputy Secretary (Budget)

Finance Department, Government of
Tamilnadu, Secretariat
Chennai-600 009.

Respondent(s)

OA No. 949 of 2024

1. National Federation of Farmers

Procurement Processing and Retailing

Cooperatives of Inida Ltd NACOF

No 5/1 and 5/2 A 1st Floor

Gopalamenon Road Kodambakkam

Chennai

Applicant

Vs

1. The Managing Director

Tamilnadu Civil Supplies Corporation

(TNCSC) CMRL Admin Building,

Poonamallee High Road, Koyambedu,

Chennai 600 107.

2.The Commissioner

Commissioner of Civil Supplies

Ezhilagam, Chepauk, Chennai.

3.The Deputy Secreatry

Finance Department Government of

Tamil Nadu Secretariat, Chennai.

Respondent(s)



Arb O.P(COM.DIV.) No. 180 of 2025

PRAYER

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Original Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to grant an order appointing a Sole Arbitrator for resolution of the dispute between the Petitioner and Respondents under the Tender Agreement dt.24.11.2024 issued by the First Respondent, to conduct the arbitration proceedings

OA No. 949 of 2024

PRAYER

Original Application filed under Section 9 of the Arbitration and Conciliation Act, 1996, to pass an order of Interim Injunction restraining the First Respondent to third Respondent from initiating any adverse action(s) of any nature against the Applicant including blacklisting or debarring the Applicant from participating in the other Trade dated 21/11/2024/future tenders, issued by the First Respondent or rejecting any bid submission of the Applicant in the other Tender dt 21/11/2024/future tenders on such grounds invoking the clauses CL.17(d) 22(f) 3 (9) under the terms and conditions of Tender dated 23/08/2024 till the final disposal of arbitration proceedings.

For Petitioner/Appellant(s): M.Velmurugan

For Respondent(s):

Mr.M.K.Kabir

Senior Advocate for R1 & R2

Mr. Siddharth, AGP for R3



ORDER

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O.A.No.949 of 2024 has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 [hereinafter referred as 'the Act'] for an interim injunction restraining the 1st respondent from initiating any adverse action against the applicant including blacklisting or debarring the applicant from participating in the future tenders till the dispute is resolved in the arbitration proceedings.

2.Arb.OP (Com.Div.).No.180 of 2025 has been filed for appointment of sole arbitrator under Section 11(6) of the Act, for resolution of the dispute between the petitioner and respondents under tender agreement dated 21.11.2024 issued by the 1st respondent.

3.Heard the learned counsel for the applicant/petitioner and the learned counsel for respondents.



4. When the applicant in OA.No.949 of 2024, came up for hearing before

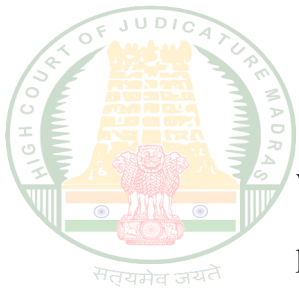
this Court on 09.12.2024, this Court passed the following order:

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This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, to restrain the respondents 1 to 3 from initiating any adverse action(s) of any nature, against the applicant, including blacklisting or debarring the applicant from participating in the other Tender dated 21.11.2024/ future tenders, issued by the first respondent or rejecting any bid submission of the applicant in terms of clauses C1.17(d), 22(f), 3(9) under the terms and conditions of Tender dated 23.08.2024, till the final disposal of arbitration proceedings.

2. Heard Mr.M.Velmurugan, learned counsel for the applicant.

3. The learned counsel for the applicant would take me through the tender awarded to the applicant and also the compliance with the first two spells as contemplated under the tender document. However, with regard to the last supply, the learned counsel for the applicant would submit that the customs duty was increased in the interregnum period which necessitated the applicant to raise the issue of adverse price impact on the contract itself. In fact, a writ petition was also filed in this regard. The said writ petition filed by the applicant was dismissed since an arbitration clause is available in the tender contract. Additionally, the applicant has also raised the issue of the Israel-Palestine war,



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which has affected the supply chain, including availability and prices of edible oils. Pursuant to the dismissal of the writ petition, the applicant has also invoked the arbitration clause under Section 21 by issuance of a notice on 03.12.2024.

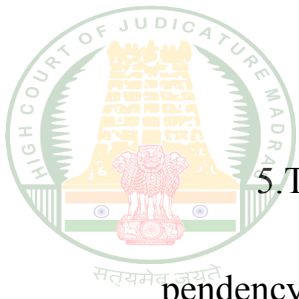
4.The learned counsel for the applicant would also submit that the applicant has also started complying with the third spell of the tender contract soon after the dismissal of the writ petition. Therefore, according to the learned counsel for the applicant, there is no lack of bonafides on the part of the applicant. The learned counsel for the applicant would further submit that the only genuine apprehension of the applicant is that citing this delay, which is beyond the control of the applicant, the respondents should not blacklist the applicant in the future tenders.

5.In view of the above, I find that the applicant has made out a prima facie case and he is entitled to an interim injunction restraining the respondents from taking any adverse actions against the applicant, as prayed for in the application under Section 9 of the Arbitration and Conciliation Act, 1996.

6.The applicant is directed to strictly comply with the provisions under Order XXXIX Rule 3(a) of C.P.C., and file necessary affidavit in Court regarding compliance.

7.Issue notice to the respondents through Court as well as privately, returnable by 07.01.2025.

8.Post the matter on 07.01.2025.



5.The above order passed by this Court was continued during the pendency of this application. During the pendency of this application, the applicant also filed petition Under Section 11(6) of the Act for appointment of an arbitrator to resolve the dispute between the applicant and the respondents under tender agreement dated 21.11.2024.

6.The third respondent has filed a counter affidavit and has taken a stand that the 3rd respondent is not a party to the agreement and there is no cause of action as against the 3rd respondent and therefore, the petition must be dismissed insofar as the third respondent is concerned.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.The petitioner has issued the trigger notice dated 03.12.2024 under Section 21 of the Act and hence, it will be more appropriate to refer the parties to the arbitral tribunal to resolve the dispute. Since the interim order passed in favour of the applicant is in effect from 09.12.2024 onwards, it can continue for



a stipulated period and a direction can be issued to the learned arbitrator to deal with the same under Section 17 of the Act.

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9. In the light of the above decision taken by this Court, this Court thought it fit not to go into the merits of the case and render any findings.

10. In the light of the above discussion, this Court is inclined to appoint a sole Arbitrator. Accordingly, Hon'ble Mr. Justice N. Paul Vasanthakumar (Retd), a former Hon'ble Chief Justice, High Court of Jammu & Kashmir, with address for service at 24-A, 2nd Street, Kamaraj Avenue, Adayar, Chennai 600020, Mobile No. 9444390958, (mail- justicenpv@gmail.com) is appointed as sole Arbitrator and the Arbitrator is requested to enter upon reference qua the tender agreement dated 21.11.2024, adjudicate the arbitral dispute that had arisen between the parties by holding the sittings in any venue in Chennai to the convenience of all concerned and render an award. Fees of the sole Arbitrator shall be in accordance with the Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees) Rules 2017.



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11.The interim order that was granted by this Court on 09.12.2024 shall continue for a period of two weeks from the date on which the arbitrator enters reference after receipt of notice. Thereafter, the application filed under Section 9 of the Act and the counter affidavit filed by the 3rd respondent shall be placed before the learned Arbitrator who will decide the same under Section 17 of the Act, on its own merits and in accordance with law.

12.Insofar as the 3rd respondent is concerned, the 3rd respondent is not even a party to the agreement and there is no cause of action as against the 3rd respondent. Hence, insofar as the 3rd respondent is concerned, these applications stands closed.

13.Both the application/petition (O.A.No.949 of 2024 and Arb.OP (Com.Div). No.180 of 2025) are disposed of in the above terms. There shall be no order as to costs.

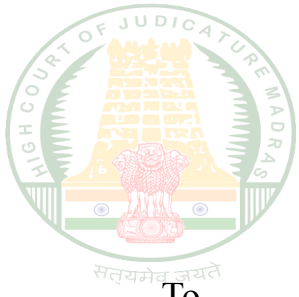
08-09-2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

KP



To
WEB COPY

- 1.Mr. Justice N.Paul Vasanthakumar (Retd),
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Mobile No.9444390958, (mail- justicenpv@gmail.com)
2. The Director
Tamil Nadu Mediation and Conciliation
Centre-cum-Ex-Officio Member
Madras High Court Arbitration Centre
Chennai - 104.
- 3.The Managing Director,
Tamilnadu Civil Supplies
Corporation,(TNCSC0 CMRL Admin
Building,Poonamallee High Road,
Koyambedu,Chennai-107.
- 4.The Commissioner
The Commissioner, Commissionerate of
Civil Supplies, Ezhilagam, Chepauk,
Chennai 600 005.
- 5.The Deputy Secretary (Budget)
Finance Department, Government of
Tamilnadu, Secretariat, Chennai-600 009.



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Arb O.P(COM.DIV.) No. 180 of
2025



N.ANAND VENKATESH J.

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AND OA NO. 949 OF 2024**

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