



WP.No.18806 of 2024

In the High Court of Judicature at Madras

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Reserved on 23.7.2025	Delivered on : 28.7.2025
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.18806 of 2024
& WMP.Nos.20634 & 39869 of 2024

B.Hema Sundar Reddy,
Proprietor of Panorama
Enterprises, Chennai-34.

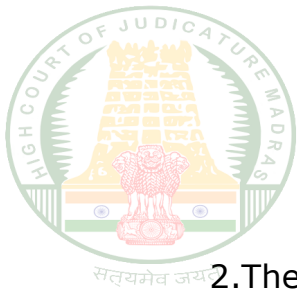
...Petitioner

Vs

1.The Government of Tamil Nadu, rep.
by its Secretary to Government,
Public & Protocol Department
Fort St.George, Chennai-9.

**(cause title amended and
R1 stood substituted vide
separate order dated 28.7.2025
in WMP.No.25162 of 2024 by
NAVJ)**

**(previous R1 - Government of
Tamil Nadu, rep.by is Secretary
to Government, Human Resource
Management, Namakkal Kavignar
Maligai, Fort St.George, Chennai.
600009 stood deleted vide separate
order dated 28.7.2025 in
WMP.No.8012 of 2025 by NAVJ)**



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2.The Reception Officer & Joint
Protocol Officer, State Protocol
Officer, State Guest House,
Chepauk, Chennai-5.

...Respondents

PETITION under Article 226 of The Constitution of India praying
for the issuance of a Writ of Certiorari to call for the records of the 2nd
respondent impugned notice of termination dated 30.4.2024 ref. Letter
No.738/A2/2022 and to quash the same.

For Petitioner : Mr.M.S.Krishnan, SC
Assisted by Mr.K.Roopesh &
Mr.B.Deepak Narayanan

For Respondents : Mr.R.Ramanlal, AAG
assisted by
Mr.Vadivelu Deenadayalan, AGP

ORDER

This writ petition has been filed challenging the notice dated
30.4.2024 issued by the second respondent terminating the contract
entered into with the petitioner with effect from 01.5.2024.

2. Heard both.



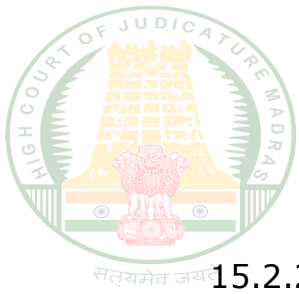
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3. The case of the petitioner is as follows :

(i) They are in the business of providing mechanised house keeping services to a number of both the Central and the State Government Organizations. The first respondent, through e-tender notice dated 18.10.2023, invited tenders for undertaking mechanised house keeping services in the State Guest House, Chennai-5 and the New Government Rest House, Omandurar Estate, Chennai-2. The petitioner participated in the tender process and submitted their bid. Pursuant to that, G.O.Ms.No.139 dated 09.2.2024 came to be issued by the first respondent whereby the petitioner was awarded the contract for mechanised house keeping services at the State Guest House, Chennai-5 and the New Government Rest House, Omandurar Estate, Chennai-2.

(ii) Accordingly, the petitioner made necessary payments towards security deposit. The contract was awarded on 09.2.2024 and an agreement was entered into between the petitioner and the second respondent on 21.3.2024. However, the second respondent reached out to the petitioner that they are in immediate need of workers considering the inauguration of the Rest House. Hence, the petitioner deployed the workers, who were available with them at that time from



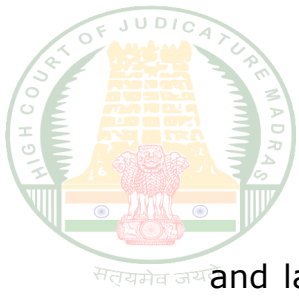
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15.2.2024 onwards.

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(iii) The grievance of the petitioner is that all of a sudden, the second respondent issued a show cause notice dated 28.3.2024 alleging that there was a deficiency in the quality of services provided by the petitioner, that the actual strength of workers deployed by the petitioner was lesser than the strength that was required and that as a result, several complaints were received. In view of the same, the petitioner was called upon to explain within a week as to why further action should not be initiated for termination of the contract. On receipt of the said show cause notice, the petitioner gave a reply dated 03.4.2024.

(iv) Immediately thereafter, the second show cause notice dated 08.4.2024 was issued to the petitioner citing various deficiencies such as inadequacy in the supply of manpower, non maintenance of separate bank account for all transactions, non maintenance of proper registers/records for the work carried on by the workers, not making arrangements to submit day-to-day stocks and other consumables, non furnishing of police verification certificates for all the employees and the third party insurance policy to protect and cover all types of accidents and injuries to the staff and non maintenance of the garden



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and lawn in the State Guest House. Further, the petitioner was asked to give proper explanation within a period of 15 days from the date of receipt of the second show cause notice.

(v) On receipt of the second show cause notice, the petitioner gave another reply dated 24.4.2024. However, through the impugned termination notice dated 30.4.2024, the contract with the petitioner was terminated by the second respondent on the ground that the petitioner did not deploy sufficient strength of workers in the State Guest House, Chennai-5 and the New Government Rest House, Chennai-2. Aggrieved by that, the above writ petition has been filed.

4. The second respondent filed a counter affidavit wherein he took the following stand :

(i) Many deficiencies were found day by day after the commencement of services of the petitioner. Therefore, a meeting was convened on 22.2.2024 and a discussion had taken place informing the petitioner regarding the various compliances that were found wanting and eight points were identified. But, the petitioner did not rectify the deficiencies and the staff retention was also very low. Only pursuant to that, the show cause notices were issued to the petitioner



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asking to give explanation. As the explanation given by the petitioner was not satisfactory, the contract was terminated as per the terms of the tender.

(ii) A period of 60 days' time was given to the petitioner before the impugned termination notice was issued and the said period of 60 days must be calculated from 22.2.2024 - the date, on which, the first meeting was held with the petitioner. The guest houses are being visited by high level dignitaries and any lapse in the quality will create a bad image on the State Government. Hence, the second respondent ensured that the inefficiency on the part of the petitioner does not continue and has, accordingly, decided to terminate the contract.

(iii) The second respondent also questioned the maintainability of this writ petition on the ground that the petitioner has to raise a dispute before the Arbitral Tribunal as provided under Clause 14 of the terms of the tender. Ultimately, the second respondent sought for dismissal of this writ petition.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned termination notice.



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6. At the outset, this Court will first deal with the preliminary objection raised by the learned Additional Advocate General appearing on behalf of the respondents on the maintainability of the writ petition in the light of the availability of an arbitration clause.

7. It is now too well settled that normally, a Writ Court does not entertain a writ petition under Article 226 of The Constitution of India where the parties are having an efficacious alternative remedy before the Arbitral Tribunal as provided in the terms of the tender. However, it is only a self imposed restriction and there are cases where, in spite of availability of an arbitration clause, if it is found that there is a patent illegality or arbitrariness in cancelling the contract, the Court can always exercise its jurisdiction under Article 226 of The Constitution of India.

8. Useful reference can be made to the judgment of the Hon'ble Apex Court in the case of ***Subodh Kumar Singh Rathour Vs. Chief Executive Officer & Others [reported in MANU/SC/0585/2024]***, the relevant portions of which are extracted as hereunder :



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"62. Thus, the present dispute even if related to a tender, cannot be termed as a pure contractual dispute, as the dispute involves a public law element. Although there is no discharge of a public function by the respondent towards the appellant yet there is a right to public law action vested in him against the respondent in terms of Article 14 of the Constitution. This is because the exercise of the executive power by it in the contractual domain i.e., the cancelling of the tender carries a corresponding public duty to act in a reasonable and rationale manner. Thus, we find that the writ petition filed by the respondent was maintainable and the relief prayed for could have been considered by the High Court in exercise of its writ jurisdiction.

.....

128. Cancellation of a contract deprives a person of his very valuable rights and is a very drastic step, often due to significant investments having already been made by the parties involved during the subsistence of the contract. Failure on the part of the courts to zealously protect the binding nature of a lawful and valid tender, would erode public faith in contracts and tenders. Arbitrary terminations of contract create uncertainty and unpredictability, thereby discouraging public participation in the tendering process. When private parties perceive that their



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contractual rights can be easily trampled by the State, they would be dissuaded from participating in public procurement processes which may have a negative impact on such other public-private partnership ventures and ultimately it is the public who would have to bear the brunt thereby frustrating the very object of public interest.

129. We caution the public authorities to be circumspect in disturbing or wriggling out of its contractual obligations through means beyond the terms of the contract in exercise of their executive powers. We do not say for a moment that the State has no power to alter or cancel a contract that it has entered into. However, if the State deems it necessary to alter or cancel a contract on the ground of public interest or change in policy then such considerations must be bona-fide and should be earnestly reflected in the decision-making process and also in the final decision itself. We say so because otherwise, it would have a very chilling effect as participating and winning a tender would tend to be viewed as a situation worse than losing one at the threshold."

9. Having answered the preliminary objection raised by the learned Additional Advocate General, this Court must see as to whether the facts of this case satisfy the above requirements in order



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to justify entertaining the above writ petition and granting the relief as sought for by the petitioner.

10. The relevant tender condition, which deals with termination, is extracted as hereunder :

"20. Termination clause expansion :

The contract may be liable for termination due to following reasons :

(a) Interruption of service by the successful bidder.

(b) Subletting the work or the space to others.

(c) Deficiency in services such as

(i) Failure by the contractor to supply manpower as per details given in Annexure IA and IB.

(ii) Short supply of manpower to the extent of 25% or above of the prescribed strength at any given point of time during the period of contract.

(iv) Misbehaviour of the staff employed by the successful bidder.

(v) The RO & JSPO will have the right to terminate the services of contractor in case of violation of any of the laws relating to minimum wages, ESI/PF, labour laws or any other law applicable to running of such establishments.

(vi) Misuse of the premises of State Guest



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House, Chennai-5 or unauthorized, illegal or unwanted activities by the contractor or their staff/representatives. If no improvement is noticed by this office in the performance of the contractor after 60 days of issue of deficiency letter, this office reserves all rights to terminate the contract with forfeiture of performance security and get the works done at the risk and cost of the contractor.

(vii) The contract may be terminated by DS (Protocol) for unsatisfactory performance as against the performance standards prescribed in Clause I after giving a reasonable opportunity to the successful bidder. In the event of such termination, security deposit amount of the contractor will be forfeited to the Government. The contract is also liable for termination after giving at least three months notice in writing with reasons from either side in the normal course and also the contractor should continue their house keeping until new contractor will be selected by this office.

(ix) If the successful bidder withdraws prematurely from the contract or his contract is terminated before expiry of the contract for deficiency of service/non performance, he will be debarred from any future house keeping contract with State Guest House and Government Rest House, Chennai. Further action will be pursued as per Tamil Nadu Transparency in Tenders Act, 1998 and the Tamil Nadu Transparency in Tender Rules,



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2012 as amended from time to time.

(x) The termination process will be initiated against the successful bidder in case the number of verified complaints and deficiencies on the above points exceeds the following permissible limits :

(a) Cumulative of 5 numbers within a month at any point of time (or)

(b) Cumulative of 15 numbers within a year at any point of time."

11. On a careful reading of the above extracted clause, it is seen that a contract is liable for termination only if it falls within the three contingencies provided. In the case in hand, admittedly, this case does not fall either within Sub-Clause (a) or Sub-Clause (b). At the best, the facts of this case will fall only under Sub-Clause (c). Even under Sub-Clause (c), there is a further categorization as to what will constitute deficiency in service.

12. Considering the grounds raised against the petitioner, the only deficiency that can be pointed out in this case is with regard to the short supply of manpower to the extent of 25% or above of the prescribed strength at any given point of time during the period of contract. It further provides that if no improvement is noticed in the

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performance of the contractor after 60 days of issuing the deficiency letter, the concerned Authority has the right to terminate the contract with forfeiture of performance security and get the works done at the risk and cost of the contractor. It also provides that in case the number of verified complaints and deficiencies exceeds the permissible limit such as cumulative of five numbers within a month at any point of time or cumulative of 15 numbers within a year at any point of time, it will give rise to termination of the contract.

13. The termination of contract, as was agreed by both the parties, is governed by the agreement. If the second respondent is justified in terminating the contract and if it is as per the terms of the agreement, then this Court cannot go into the merits of the case and deal with the issue and at the best, this Court can only look into the process adopted. Thereafter, if the petitioner is aggrieved, the petitioner can only invoke the arbitration clause.



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14. Keeping the above in mind, this Court will now proceed to go into the reasons as to why the contract was terminated.

15. As per the first show cause notice dated 28.3.2024, there was a shortage in the deployment of the actual strength of employees. The period from 15.3.2024 to 25.3.2024 has been considered and the employees' strength has been tabulated. As is seen from Annexure I of the tender notification for the State Guest House, Chennai-5, the total number of employees required is 65 and for the New Government Rest House, Chennai-2, the total number of employees required is 48. In total, 113 employees are required for both the guest houses.

16. As noted supra, the short supply of manpower should not exceed 25% or above of the prescribed strength at any given point of time during the period of contract. 25% of 113 employees comes to 84 employees. Therefore, the short supply of manpower must be below 84 at any given point of time during the period of contract. The tabulation made in the first show cause notice would show that only on 24.3.2024 and 25.3.2024, it has gone below 25% since, on those two days, it was 83 and 78 employees, who were present respectively.



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17. On receipt of the first show cause notice, a reply was given by the petitioner on 03.4.2024 informing that all efforts were taken to deploy the required manpower. Thereafter, within a span of five days, another show cause notice dated 08.4.2024 was issued wherein the main focus was on the employees' strength from 28.3.2024 to 03.4.2024. As per the second show cause notice, except for four days namely 28.3.2024, 31.3.2024, 02.4.2024 and 03.4.2024, on all the other days, the employees' strength did not go below 25%. Only on those four days i.e. 28.3.2024, 31.3.2024, 02.4.2024 and 03.4.2024, the employees' strength was 82, 76, 81 and 81 respectively.

18. In the second show cause notice, apart from the above discrepancy, the other minor discrepancies like non maintenance of registers and records, non furnishing of police verification certificates of the employees, etc., have also been mentioned. Further, the petitioner was given 15 days' time to explain the deficiencies listed. On receipt of the second show cause notice, the petitioner gave another reply dated 24.4.2024 informing that they provided 92% of the tender quantity manpower and that in a couple of days, they would be able to fulfil the entire required manpower.



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19. In so far as the other minor discrepancies are concerned, the petitioner had given the explanation. Thereafter, within six days i.e on 30.4.2024, the first respondent sent a communication to the second respondent directing termination of the contract given to the petitioner by issuing the notice of termination with three months' notice period with effect from 01.5.2024 and to float a new tender. On the very same day, the second respondent acted upon it and issued the impugned termination notice to the petitioner. In the impugned termination notice, the petitioner was informed that the reply given by them was not acceptable, that there was no mention about the corrective measure taken to improve the services apart from stating that the performance of the contract was not up to the mark and that therefore, the contract was terminated with effect from 01.5.2024 with three months' notice period.

20. The termination of contract can take place only if it is brought within the scope of Clause 20 of the terms of tender. As has been pointed out supra, the only basis, on which, the contract can be terminated in this case is for the short supply of manpower. The other minor discrepancies given in the second show cause notice cannot



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result in the termination of the contract.

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21. In both the show cause notices, the second respondent was able to point out the shortage of manpower to an extent of 25% (6 days) for the period from 15.3.2024 to 03.4.2024 (20 days). Thus, the manpower to the optimum level was available only for 14 days.

22. The relevant clause also contemplates that improvement must be shown in the performance of the contractor within 60 days of issuance of the deficiency letter. According to the second respondent, as early as 22.2.2024, the petitioner was called upon for a meeting and deficiencies were pointed out. Therefore, the termination notice was issued beyond 60 days as contemplated under the relevant clause, since, according to the second respondent, the 60 days' period ended on 21.4.2024 whereas the impugned termination notice was issued only on 30.4.2024.

23. On carefully going through the minutes of the meeting dated 22.2.2024, it is seen that it was only the first meeting between the petitioner and the second respondent after the contract was awarded



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to the petitioner on 09.2.2024 and before the petitioner entered into the agreement with the second respondent on 21.3.2024. Therefore, the date, on which, the first meeting was conducted, namely 22.2.2024 cannot be taken to be the date of issuance of the deficiency letter. The date of issuance of deficiency letter can be calculated only from the date, on which, the first show cause notice was issued to the petitioner on 28.3.2024. If 28.3.2024 is taken into consideration, it is seen that the contract has been terminated well within 60 days i.e. on 30.4.2024 (33 days).

24. The second respondent, in the counter affidavit, has raised many other grounds regarding improper up-keeping of the premises and other discrepancies by relying upon some of the clauses in the tender document.

25. A counter affidavit cannot improve the reasons that have been assigned in the impugned notice. This Court can only go by the show cause notices issued to the petitioner, the reply given by the petitioner to the show cause notices and the impugned termination notice issued by the second respondent. The grounds stated therein



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alone can be considered and it is not necessary for this Court to take into account all those discrepancies, which have now been pointed out in the counter affidavit filed by the second respondent.

26. At the risk of repetition, it has already been found that the parties are governed by Clause 20 of the terms of tender in so far as the termination of contract is concerned. It has also been found that the only clause that will be relevant in this case pertains to short supply of manpower. If that is so, the short supply of manpower was found on six days and it was informed to the petitioner through the two show cause notices. As per the terms of tender, the petitioner is expected to show improvement within a period of 60 days.

27. The petitioner filed the additional typed set of papers, which contains the attendance register from pages 36 to 77 and it would show that on majority of the days, the optimum manpower was available. Hence, the second respondent ought to have waited for 60 days. If it is found beyond 60 days that there is no improvement in the performance of the contractor, the same can result in the termination of the contract. For the reasons best known to the second



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respondent, he failed to wait for 60 days and in a hasty manner, the second respondent proceeded to issue the impugned termination notice dated 30.4.2024.

28. In the judgment in ***Subodh Kumar Singh Rathour***, the Hon'ble Apex Court dealt with the arbitrary termination of contract and it was ultimately held that the Court must zealously protect the binding nature of a lawful and valid contract and must prevent arbitrary termination of contract. Virtually, the Hon'ble Apex Court has read Article 14 of The Constitution of India into a contract entered into by the State with private individuals/entities.

29. In the case in hand, the second respondent will be justified in terminating the contract given to the petitioner if the deficiencies shown had continued beyond 60 days. The deficiency, as was pointed out by this Court, pertains to shortage of manpower. The shortage below 25% was seen on a few days and it was informed to the petitioner. If the petitioner had continued with this deficiency beyond 60 days, there is every justification for the second respondent to terminate the contract. Without waiting for this period and without

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taking into consideration the reply given by the petitioner, the contract stood terminated arbitrarily by the second respondent. Further, the second respondent is now trying to justify the termination of the contract on the ground that the up-keeping of the guest house is very poor considering the fact that high level dignitaries will stay in the guest house and that it will reflect on the image of the State.

30. Both the show cause notices did not state anything about of the fall out of the deficiency of manpower on certain days and as a consequence, it is not known as to how it affected the up-keeping of the guest house. These are not matters of assumption and it has to be clearly spelt out in the show cause notice itself. At least, the termination notice should have stated the fall out arising out of the shortage of manpower.

31. As a last ditch attempt, the learned Additional Advocate General submitted that a subsequent tender was called for, that a new contract has been awarded on 31.1.2025, that the work started from 03.2.2025 and that the agreement was signed between the parties on 05.2.2025.



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32. Such a fait accompli cannot be raised as a ground on the side of the respondents since this Court has made it very clear while passing the order on 22.7.2024 that the evaluation and other processes would continue, but the entirety of the process would be subject to result of this writ petition. Therefore, the contract that has now been awarded in favour of the new contractor is subject to the result of this writ petition. It is the duty of the respondents to have informed the new contractor about the pendency of this writ petition and the interim order passed by this Court on 22.7.2024. The above discussions will lead to the only conclusion that the impugned termination notice is held to be illegal.

33. In the light of the above, the writ petition is allowed, the impugned termination notice dated 30.4.2024 issued by the second respondent is hereby set aside and there shall be a direction to the respondents to continue the contract issued in favour of the petitioner. It goes without saying that while determining the total period of contract, the period from 30.4.2024 i.e. the date on which the contract was terminated upto the date, on which, the services of the petitioner are again utilized, shall be added to the total period of contract. During

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the pendency of this writ petition, the petitioner filed WMP.No.39869 of 2024 seeking to direct the respondents to settle the pending bills as raised by them in accordance with the letter dated 21.11.2024. It is needless to point out that if any such bills are still pending with the second respondent, the amount shall be disbursed to the petitioner before ever the services of the petitioner are once again utilized. No costs. Consequently, the connected WMPs are closed.

28.7.2025

Index : Yes
Neutral Citation : Yes

To

1.The Government of Tamil Nadu, rep.
by its Secretary to Government,
Public & Protocol Department
Fort St.George, Chennai-9.

2.The Reception Officer & Joint
Protocol Officer, State Protocol
Officer, State Guest House,
Chepauk, Chennai-5.

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