



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 18.02.2025**

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**CORAM**  
**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**  
**AND**  
**THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

**W.A.No.3300 of 2024**  
**and**  
**C.M.P.No.25615 of 2024**

Metro Water Tanker Lorry Contractors Association,  
Represented by its President,  
P.S.Sundaram,  
No.102, Bharathi Salai, Mugappair West Garden,  
Chennai - 600 037.

... Appellant

Vs.

1. S.N.Jeevagan
2. The Managing Director,  
Chennai Metropolitan Water Supply and  
Sewerage Board (CMWSSB),  
Chintadripet,  
Chennai - 600 002.
3. Siva Kumar
4. Saravanan
5. Loganathan
6. K. Boobalan
7. Balaraman
8. Swaminathan

[R3 to R8 are impleaded as per the order  
dated 18.02.2025 in C.M.P.No.26504 of 2024 in  
W.A.No.3300 of 2024 by SMSJ & KRSJ]

... Respondents



W.A.No.3300 of 2024



**Prayer:** Writ appeal filed under Clause 15 of the Letters Patent Act, to set aside the order dated 09.10.2024 in W.P.No.28167 of 2024.

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For Appellant : Mr.M.Guruprasad  
for Mr.R.Nalliyappan

For Respondents : Mr.M.Velmurugan for R1  
: Mr.Krishna Ravindran for R2  
: Mr.K.Sudhan for R3 to R8

### **J U D G M E N T**

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The intra-Court appeal on hand has been instituted to assail the order dated 09.10.2024 passed in W.P.No.28167 of 2024.

2. The points raised and considered in the writ proceedings are that whether a person who owned seven years old water tanker lorry can be permitted to participate in the tender notification dated 09.08.2024, issued by the Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB) (hereinafter referred to as "the Board").



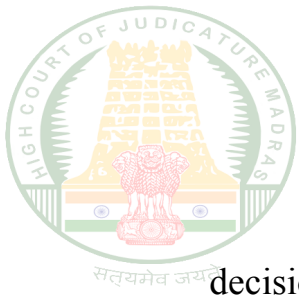
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3. The first respondent herein challenged the eligibility criteria in the writ proceedings, which reads as under:

*"I-(C) Eligibility Criteria - "A.Water tanker lorries of capacity 18000 litres, 12000 litres, 9000 litres and 6000 litres of year 2020 and later year model satisfying the pollution norms will alone be considered for evaluation in the tender."*

4. With reference to the grounds raised in the writ proceedings by the first respondent, the writ court interfered with the eligibility criteria fixed by the Chennai Metropolitan Water Supply and Sewerage Board and directed the Board to issue addendum to the tender notification dated 09.08.2024, insofar as clause A of I-(C) to the effect that the water tanker lorries of the year 2018 and later model satisfying the pollution norms will alone be considered for evaluation in the tender, forthwith and extend the last date for submission of bids by one week thereafter.

5. Mr.Krishna Ravindran, the learned Counsel for the second respondent/Board would submit that the tender conditions are revised in order to improve the efficiency level and to avoid pollution and frequent breakdown in water tankers.



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6. That apart, it is for the Authorities to take an administrative decision for prescription of eligibility criteria based on various factors. Thus, the writ court has erroneously interfered with the eligibility criteria, which would result in allowing ineligible candidates, who all are owning very old water tankers to participate in the tender process.

7. Mr.M.Velmurugan, the learned Counsel for the first respondent/writ petitioner would mainly contend that the first respondent or the similarly placed persons cannot be discriminated. As per the old eligibility criteria, water tankers of seven years old are permitted. Therefore, the restriction imposed to permit five years old water tankers would result in causing prejudice to the interest of the water tank lorry owners, who all are already extending their services to the Board.

8. The learned Counsel for the writ appellant would submit that the eligibility criteria fixed by the Board need not be interfered with, as there is a delay in implementing BS-VI emission norms and permitting old water tanker lorries would cause pollution in and around Chennai City. In order to comply with the pollution norms, eligibility criteria was revised by the Board



and accordingly, five year old water tanker lorries alone are permitted to participate in the tender process.

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9. The Court not being an expert body cannot place its opinion in the matter of prescription of eligibility criteria, unless such eligibility criteria is fixed in violation of the Act or Rules or being arbitrary.

10. The Hon'ble Supreme Court of India in the case of ***Tata Motors Limited Vs. Brihan Mumbai Electric Supply & Transport Undertaking (BEST) and Others*** reported in ***2023 SCC Online SC 671*** ruled as follows:

"48. This Court being the guardian of fundamental rights is duty-bound to interfere, when there is arbitrariness, irrationality, malafides and bias. However, this Court has cautioned time and again that courts should exercise a lot of restraint while exercising their powers of judicial review in contractual or commercial matters. This Court is normally loathe to interfere in contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or irrationality is made out. One must remember that today many public sector undertakings compete with the private industry. The contracts entered into between private parties are not subject to scrutiny under writ jurisdiction. No doubt, the bodies which are State within the meaning of Article 12 of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of



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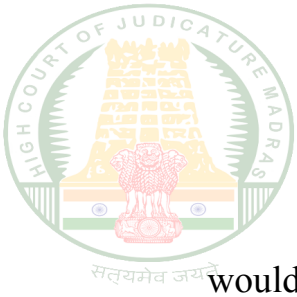
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*superior courts but this discretionary power must be exercised with a great deal of restraint and caution. The courts must realise their limitations and the havoc which needless interference in commercial matters can cause. In contracts involving technical issues the courts should be even more reluctant because most of us in Judges' robes do not have the necessary expertise to adjudicate upon technical issues beyond our domain. The courts should not use a magnifying glass which scanning the tenders and make every small mistake appear like a big blunder. In fact, the courts must give "fair play in the joints" to the Government and public sector undertakings in matter of contract. Courts must also not interfere where such interference will cause unnecessary loss to the public exchequer. (see : Silppi Constructions Contractors v. Union of India, (2020) 16 SCC 489)*

*49. to 53.....*

*54. As observed by this Court in **Jagdish Mandal v. State of Orissa**, reported in (2007) 14 SCC 517, that while invoking power of judicial review in matters as to tenders or award of contracts, certain special features should be borne in mind that evaluations of tenders and awarding of contracts are essentially commercial functions and principles of equity and natural justice stay at a distance in such matters. If the decision relating to award of contract is bona fide and is in public interest, courts will not interfere by exercising powers of judicial review even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. Power of judicial review will not be invoked to protect private interest at the cost of public interest, or to decide contractual disputes."*



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11. The learned Standing Counsel appearing on behalf of the Board would submit as per the tender notification, the process has already been completed and award of tender alone is awaited due to the pendency of the present writ appeal.

12. In view of the said *factum*, the second respondent/Board is permitted to complete the tender process in all respects and award the contract by following the due procedures.

Consequently, the writ order under challenge dated 09.10.2024 in W.P.No.28167 of 2024 is set aside and Writ Appeal stands **allowed**. No costs. Connected miscellaneous petitions, if any, are closed.

[S.M.S,J.] [K.R.S,J.]

18.02.2025

veda

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

To

1. The Managing Director,  
Chennai Metropolitan Water Supply and  
Sewerage Board (CMWSSB),  
Chintadripet,  
Chennai - 600 002.



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**S.M.SUBRAMANIAM,J.**  
**AND**  
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