



W.P.(MD).No.3371 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.3371 of 2025

and

W.M.P.(MD)No.2369 of 2025

M/s.J.K.Traders,
Proprietor, V.M.J.Mohammed Ansari,
No.5, Mariamman Koil Street,
Goripalayam,
Madurai – 625 002.

... Petitioner

-vs-

The Director General of Prisons and Correctional Services,
No.6, Annai EVR Maniammai Salai,
Egmore,
Chennai 600 008.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondent to permit the petitioner to participate the tender conduct by the respondent in future without citing the pendency of FIR.

For Petitioner : Mr.Issac Mohanlal

Senior Counsel

For Respondent : Mr.M.Ajmal Khan

Additional Advocate General

assisted by



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Mr.K.S.Selvaganesan

Additional Government Pleader

ORDER

This writ petition has been filed seeking for a direction to the respondent to permit the petitioner to participate the tender to be conducted by the respondent in future, without citing the pendency of FIR.

2. The case of the petitioner is that he is the successful tenderer in the tender conducted for supply of raw materials for prison industries for the year 2024-25 and the petitioner has been supplying the raw materials to the second respondent without any default and the tender period comes to an end on 31.03.2025. While being so, a case in Crime No.15 of 2024 registered by the Vigilance and Anti Corruption, Madurai Detachment against the petitioner and others for the offences under Sections 120-B, 467, 468, 471, 167, 409 of IPC and Section 13(2) r/w.13(1)(a) of Prevention of Corruption Act, 1988. Pursuant to that, the first respondent issued a show cause notice dated 26.12.2024, for which the petitioner also submitted his explanation on 06.01.2025. On consideration of the reply submitted by the petitioner, the petitioner was issued with an order dated 20.01.2025 cancelling the tender.



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3. When the matter is taken up for hearing, the learned Additional Advocate General appearing for the respondents relied upon the order passed by the Hon'ble Division Bench of this Court in the case of *Semalaiappan vs. The Tamil Nadu Water Supply and Drainage Board and others* reported in **2010 (6) CTC 27**. The learned Additional Advocate General appearing for the respondents also filed a typed set of papers and also the counter affidavit filed by the respondents.

4. On perusal of the typed set of papers filed by the learned Additional Advocate General appearing for the respondents, it is seen that the petitioner being the successful bidder, the first respondent, issued the proceedings dated 04.07.2024. However, some malpractices have been done by the petitioner and others and hence, an FIR came to be registered in Crime No.15 of 2024, since the petitioner prepared bills and vouchers as if they have purchased cotton yarn tape from Sri Kumaran Traders, B.Komarapalayam, Namakkal District and Suviseshan Ruling Book Binding Industry, Madurai and there is no details as to the mode of transport, mode of delivery, quantum of articles and place of delivery to show the authenticity of transaction. Pursuant to that, the first respondent issued a show cause notice dated 26.12.2024, for which



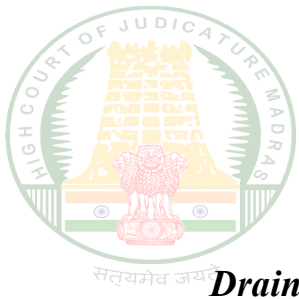
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the petitioner also submitted his explanation on 06.01.2025. On consideration of the reply sent by the petitioner, the petitioner was issued with an order dated 20.01.2025 cancelling the tender, which was given to the petitioner.

5. On perusal of the counter affidavit, it is seen that the petitioner has involved in a criminal case with regard to supply of raw materials to prison industries and the respondents would state in the counter affidavit that the remedy open to the writ petitioner is to approach the competent civil Court. The contention of the petitioner is that he is only the tenderer for transport of raw materials to the Central Prison and he has no contractual obligation to maintain the records, which is not acceptable. Further, since the petitioner does not deserve for continuance of contract order, the impugned order is lawful and legally sustainable. The plea of the petitioner to supply of raw materials after involvement in a criminal case, is not feasible to be complied with. It is further stated in the counter affidavit that the payment to the raw materials supplied to the prison authorities by the petitioner is being settled by the concerned authority subject to the availability of budget provisions.

6. A perusal of the order passed by the Hon'ble Division Bench of this Court in the case of *Semalaiappan vs. The Tamil Nadu Water Supply and*



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Drainage Board and others reported in **2010 (6) CTC 27**, and the relevant portion of the order is extracted hereunder:-

“14.It is a settled principle of law that a writ is not a remedy for enforcing contractual obligation. A writ under Article 226 of the Constitution of India is not a proper proceeding for adjudicating such dispute under the law. It is open to the parties to approach the Court of competent jurisdiction for proper relief and for breach of contract. When an alternative and equally efficacious remedy is open to the litigant, he should be required to pursue that remedy and not invoke the writ jurisdiction of this Court. The dispute relating to the contracts cannot be agitated under Article 226 of the Constitution of India. Therefore, the dispute with regard to interpretation of the terms of the agreement could not be agitated in a writ petition under Article 226 of the Constitution of India.

15.A statute may expressly or impliedly confer power on a statutory body to enter into contracts in order to enable it to discharge its functions. Dispute arising out of the terms of such contracts or alleged breaches have to be settled by the ordinary principles of law of contract. The fact that one of the parties to the agreement is a statutory or public body will not by itself affect the principles to be applied. The dispute with regard to the meaning of a covenant in a contract or its enforceability have to be determined according to the usual principle of contract act. Further, a contract would not become statutory simply because it is for construction of a public utility and it has been awarded by a statutory body.

16.In the present case, the agreement cannot be termed as a statutory agreement. Therefore, a dispute relating to the



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interpretation of the terms and conditions of such a contract could not be agitated in a writ petition under Article 226 and the dispute is a matter for adjudication only by a civil Court or in arbitration proceedings, if provided in the contract. In the case on hand, in Clause 67 of the agreement, "competent court" means only a competent civil court. That being the case, when an alternative remedy is open to the litigant, he should be required to pursue that remedy and not invoke writ jurisdiction. Even though, the power under Article 226 of the Constitution of India are wide it cannot be said that such power could be invoked even in cases where disputed questions of fact arise for consideration and when contractual obligations and breaches thereof are involved. When there are disputed questions of fact, the competent court to decide the issues is only a civil court. Therefore, the issue with regard to the question of fact cannot be decided in a writ petition. The learned single judges rightly dismissed the writ petition as not maintainable."

7. Thus, it is clear that a writ is not a remedy for enforcing contractual obligation. The plea of the petitioner to participate in the tender in future, after involvement in a criminal case, is not feasible to be complied with. It is open to the parties to approach the competent forum for proper relief and for breach of contract. When an alternate and equal efficacious remedy is open to the litigant, he should be required to pursue that remedy and not invoke the writ jurisdiction of this Court. The dispute relating to the contracts cannot be agitated under Article 226 of the Constitution of India.



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8. For the foregoing reasons, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

NCC : Yes/No
Index : Yes / No
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VIVEK KUMAR SINGH, J.

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TO:-

1. The Director General of Prisons and Correctional Services,
No.6, Annai Evr Maniammai Salai,
Egmore,
Chennai 600 008.

Order made in
W.P.(MD)No.3371 of 2025
(2/3)

Dated:
04.03.2025