

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 04.08.2025

**CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD) Nos.1683 to 1686 of 2025
and
C.M.P.(MD)Nos.9419, 9422, 9425, 9426 of 2025**

in WA(MD)Nos.1683 to 1685 of 2025 : -

K.Manikandan

... Appellant in all cases

Vs.

1.The District Collector,
Kanyakumari District, Nagercoil.

2.The Executive Officer,
Kadaya I Grade Town Panchayat,
Kanyakumari District.

3.P.Jayasingh

4.I.Kezhson
(R4 is impleaded vide order dated 04.08.2025
in CMP(MD)Nos.12632 to 12635 of 2025)

5.The Secretary to Government,
Finance Department,
Government of Tamil Nadu,
Secretariat, Chennai – 600 009.

(R5 is suo motu impleaded
vide order dated 04.08.2025)

... Respondents



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in WA(MD)Nos.1686 of 2025 :-

K.Manikandan

... Appellant in all cases

Vs.

1.The District Collector,
Kanyakumari District, Nagercoil.

2.The Executive Officer,
Kadaya I Grade Town Panchayat,
Kanyakumari District.

3.I.Kezhson

(R3 is impleaded vide order dated 04.08.2025
in CMP(MD)No.12635 of 2025)

4.The Secretary to Government,
Finance Department,
Government of Tamil Nadu,
Secretariat, Chennai – 600 009.

(R4 is suo motu impleaded
vide order dated 04.08.2025)

... Respondents in all cases

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent,
praying this Court to set aside the common order dated 28.04.2025 made in
WP(MD)Nos.19664 and 20084 to 20086 of 2023.

in WA(MD)Nos.1683 to 1685 of 2025 :-

For Appellant : Mr.Prasanna Vinoth for Mr.C.Bharathi

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General
assisted by Mr.A.Kannan,
Additional Government Pleader
for R1 and R2 & R5

Mr.Pugazh Gandhi for R4



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Mr.N.Dilipkumar for MJD Construction
and Engineering Contractors P Ltd
(intervenor)

in WA(MD)No.1686 of 2025 : -

For Appellant : Mr.Prasanna Vinoth for Mr.C.Bharathi

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General
assisted by Mr.A.Kannan,
Additional Government Pleader
for R1 and R2 & R4

Mr.Pugazh Gandhi for R3

Mr.N.Dilipkumar for MJD Construction
and Engineering Contractors P Ltd
(intervenor)

COMMON JUDGMENT

(By G.R.SWAMINATHAN, J.)

The appellant Thiru.K.Manikandan filed WP(MD)Nos.19664 and 20084 to 20086 of 2023 challenging the tender processes floated by the respective respondent local bodies. He also wanted fresh tender notification to be issued for the petition mentioned works. The learned Single Judge vide common order dated 20.04.2025 dismissed the writ petitions. Aggrieved by the same, these writ appeals have been filed.



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2. Due to sheer efflux of time and the subsequent developments, the question of interfering with the concluded tender processes does not arise at all. To be fair to the appellant's counsel, he also did not pursue the matter seriously. The sole focus was for deleting the direction set out in Paragraph No.17 of the impugned order of the learned Single Judge. It reads thus :

“17. However, in the instant case, having allowed the petitioner as well as the construction company in which the petitioner as well as his wife, Mrs. D. Janaka Jebangalin, are equal equity shareholders, the respondents have failed in ensuring a level playing field preventing potential manipulation of the bidding process. In line with the order passed by this Court in W.P.(MD) No. 2166 of 2023 dated 23.03.2023, I hereby reiterate the order of this Court again by directing the respondents to prevent the writ petitioner as well as his wife in the name of MJD Construction and Engineering Contractors Private Limited in participating in the same tender process in future.”

3. It is seen that the appellant's wife is a shareholder and Director of MJD Construction and Engineering Contractors P Ltd. Both the appellant as well as the said company have been submitting tenders for various tender works in a number of cases. They turn out to be L1 and L2. This according to the respondents herein constitutes clear violation of the confidentiality principle and violates the integrity of the tender processing. They would contend that there should not be any conflict of interest between or among the bidders. The



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learned counsel for the impleaded respondent had submitted a detailed written note. He also placed reliance on the decisions reported in ***Kumbhat Holographics v. State of Tamilnadu MANU/TN/4594/2021*** and ***Kandasamy v. Commissioner of Rural Development MANU/TN/3202/2023***. Our attention was also drawn to Rule 15 of the Tamil Nadu Tender Transparency (Public Private Partnership Procurement) Rules 2012 and. He contended that the application of the said Rule has not been confined only to public private procurement alone.

4.Per contra, the learned counsel for the appellant would argue that when there is no statutory bar either under Tamil Nadu Transparency in Tenders Act, 1998 and Rule 15 of the Tamil Nadu Tender Transparency (Public Private Partnership Procurement) Rules 2012 prohibiting participation of persons related to each other or sharing the common household, the learned Single Judge was not justified in issuing a blanket direction for disqualification in future. According to him, Rule 15 of the Tamil Nadu Tender Transparency (Public Private Partnership Procurement) Rules 2012 applies only to public private partnership concerns. It is further contended that the appellant is no longer a shareholder in MJD Construction and Engineering Contractors P Ltd.



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5. We carefully considered the rival contentions and went through the materials on record. We note that the appellant had challenged the impugned tender processes on the grounds set out in the affidavits filed in support of the writ petitions. As already mentioned, we do not propose to interfere with the order of the learned Single Judge dismissing the writ petitions. However, in Paragraph 17, the learned Single Judge has passed an adverse direction not only against the appellant but also against his wife Ms.D.Janaka Jebangalin and the company MJD Construction and Engineering Contractors P Ltd. Neither the appellant's wife nor the said company were parties to the writ proceedings. We are therefore of the view that making an adverse observation or direction against them would be in breach of the principles of natural justice. Ms.D.Janaka Jebangalin is no doubt the wife of the appellant. No order or observation can be passed without specifically impleading her. A woman on account of becoming wife does not lose her independent status. She continues to retain her personality. But whether on account of the statutory rules, her acts would attract any disqualification is a matter to be decided in her presence and after putting her on notice. Feminists take exception even to the employment of the expression "husband/wife". Spouse/partner/marital partner are the preferred terms of usage to discourage such relationships.

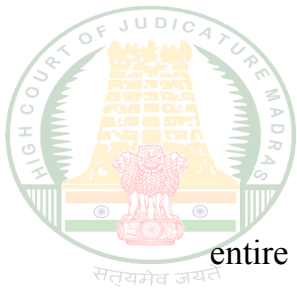


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6. It is for this reason, we set aside the adverse observation and direction set out in Para 17 and elsewhere of the order of the learned Single Judge. At the same time, the larger issues raised by the impleaded private respondent cannot be lost sight of. Even while sustaining the order of dismissal passed by the learned Single Judge, we remand this issue regarding confidentiality and conflict of interest among the tenderers/bidders for determination to the file of the fifth respondent.

7. We are constrained to make an order of remand for more reasons than one. While according to the respondents, the appellant is having 50% shareholding in the company, the appellant denies the same. According to him, he had relinquished all his share-holdings almost two decades ago. The case on hand involves a company. While there is a specific disqualification provision in Tamil Nadu Tender Transparency (Public Private Partnership Procurement) Rules 2012, under the parent Act as well as in the Tamil Nadu Transparency in Tenders Rules, 2000, there is no corresponding provision. We do not want to go into the merits of the rival contentions. It is for the government to take a call in the first instance. Thereafter, in exercise of judicial review, the correctness of the stand taken by the fifth respondent can be examined.

8. We are conscious that the fifth respondent is not the appellate authority but considering the public importance of the issue and its application for the



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entire State, we direct the fifth respondent to issue notice to the appellant, his spouse Ms.Janaka Jebangalin as well as MJD Construction and Engineering Contractors P Ltd, the impleaded respondent R4 herein and other stakeholders and take a call on merits and in accordance with law as expeditiously as possible. We hope and trust that final decision on the issue will be taken within four weeks from the date of receipt of copy of this order.

9.These writ appeals are partly allowed. No costs. Connected miscellaneous petitions are closed.

(G.R.S., J.) (K.R.S., J.)
04.08.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
SKM

Order copy to be issued on 12.08.2025

To

- 1.The District Collector, Kanyakumari District, Nagercoil.
- 2.The Executive Officer, Kadayal I Grade Town Panchayat, Kanyakumari District.
- 3.The Secretary to Government,
Finance Department, Government of Tamil Nadu,
Secretariat, Chennai – 600 009.



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G.R.SWAMINATHAN, J.

AND
K.RAJASEKAR, J.

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W.A(MD) Nos.1683 to 1686 of 2025
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