



W.P.(MD) No.20617 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.20617 of 2025

and

W.M.P.(MD) Nos.15956, 15959 and 15960 of 2025

Veeraputhiran

... Petitioner

/vs./

1.The District Collector,
Office of the District Collector,
Nagercoil,
Kanyakumari District.

2.The Assistant Director of Town Panchayat,
Collectorate Building,
Nagercoil,
Kanyakumari District.

3.The Executive Officer,
Thirapparapu Selection Grade Town Panchayat,
Thiruvattar Taluk,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned tender notification issued by the 3rd respondent vide No.



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25/2025/A1 dated 14.07.2025 in respect of the items of works i.e. Laying of cement platform at Koodal Kadavu road and construction of a Wall at Vengottu Tank and quash the same as illegal and unconstitutional and consequently directing the 3rd respondent to open the tender application submitted by the petitioner in response to the tender notification issued by the 3rd respondent vide no.25/2025/A1 dated 26.06.2025 in respect of the items of works i.e. Laying of cement platform at Koodal Kadavu road and construction of a Wall at Vengottu Tank being the lowest tender and issue the work orders to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.P.Mahendran

For R1 & R2 : Mr.D.Ghandiraj
Special Government Pleader

For R3 : Mr.K.R.Badurus Zaman
Government Advocate

ORDER

Mr. D.Ghandiraj, learned Special Government Pleader takes notice for the respondents 1 and 2 and Mr.K.R.Badurus Zaman, learned Government Advocate takes notice for the third respondent.

2.The petitioner was the sole bidder of Item Nos.1 and 3 in the Tender Notification issued by the third respondent on 26.06.2025. The petitioner was



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required to make the bid between 09.07.2025 and 10.07.2025 before 04.00 pm.,
The petitioner offered his bid after making necessary advance payment in the form of Earnest Money Deposit (EMD) of Rs.9,900/- each vide serial Nos.1 and 3 in the said tender document.

3.It appears that barring the petitioner, no other persons participated in the auction process and therefore, the third respondent has floated a fresh tender on 14.07.2025. Serial Nos.1 and 3 are serial Nos.1 and 2 in the fresh Tender Notification floated on 14.07.2025. The last date for submission of the bid was as per the new Tender Notification is 29.07.2025. On 29.07.2025, the bid will be opened and the contract will be awarded, in case the present writ petition is dismissed.

4.The learned counsel for the petitioner would submit that the issue is covered in terms of the decision of this Court rendered in W.P.(MD) Nos.17993 to 17996 of 2025 (*N.Ravichandran Vs. The Principal Government Secretary, Municipal Administration and Water Supply Department, Chennai and others*), dated 08.07.2025, wherein in para Nos.11 and 12, this Court had considered Rule



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21(2) of the Tamil Nadu Transparency in Tenders Rules, 2000.

5.It is submitted that the tender document was not opened in the presence of the petitioner and thus, there is manifest violation of Rule 21(2) of the Tamil Nadu Transparency in Tenders Rules, 2000.

6.*Per contra*, the learned Special Government Pleader for the respondents 1 and 2, on the other hand, would draw attention to the Rule 3(1)(2)(10) in part II of the Tamil Nadu Urban Local Bodies Rules, 2023.

7.It is submitted that even if the tender document was opened in the presence of the petitioner as is required under Rule 21(2) of the Tamil Nadu Transparency in Tenders Rules, 2000, the ultimate decision is with the Council.

8.That apart, it is submitted that as per proviso to Rule 3(6)(10), if the highest bid has been rejected for any reason, the reason for the same has to be recorded in writing.



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9.It is submitted that the bid of the petitioner has not been opened as there were no other bidders and therefore, the question of pressing Rule 21(2) of the Tamil Nadu Transparency in Tenders Rules, 2000, does not arise.

10.The learned Special Government Pleader for the respondents 1 and 2, in support of his contention, relies on the decision of the Hon'ble Supreme Court in ***The State of Punjab and others Vs. Mehar Din, (2022) 5 SCC 648.***

11.I have considered the arguments advanced by the learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 and 2 and the learned Government Advocate for the third respondent. I have also perused the decision of this Court rendered in W.P.(MD) Nos.17993 to 17996 of 2025 (***N.Ravichandran Vs. The Principal Government Secretary, Municipal Administration and Water Supply Department, Chennai and others***), dated 08.07.2025 in the context of Rule 21(2) of the Tamil Nadu Transparency in Tenders Rules, 2000.



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12. Floating of a tender is nothing but an invitation to offer from the prospective bidders. The bidders are required to make their offer, which if accepted as per the Tender Notification will result in binding a contract followed by issuance of a work order.

13. In this case, as far as serial Nos.1 and 3 in the Tender Notification dated 26.06.2025 are concerned, the petitioner was the sole bidder, who had offered Rs. 9,40,000/- as against Rs.9,90,000/- for the respective work.

14. The bid of the petitioner has not been opened, as there was only a single bid and there was no other bid and there is no competition. Only if the bid is opened arbitrarily behind the back of the petitioner, the question of Rule 21(2) of the Tamil Nadu Transparency in Tenders Rules, 2000, will apply.

15. It is always open for a person holding the auction to accept or reject the offer. Unless the contract is signed, there is no binding obligation of the person holding the tender. If the bid does not evoke participation of results in a single bid, the employer may not get a competitive bid.



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16. In fact, the Hon'ble Supreme Court has taken a view in ***The State of Punjab and others Vs. Mehar Din, (2022) 5 SCC 648***. Para Nos. 18 and 19 of the said judgment reads as under:-

18. This Court has examined right of the highest bidder at public auctions in umpteen number of cases and it was repeatedly pointed out that the State or authority which can be held to be State within the meaning of Article 12 of the Constitution, is not bound to accept the highest tender of bid. The acceptance of the highest bid or highest bidder is always subject to conditions of holding public auction and the right of the highest bidder is always provisional to be examined in the context in different conditions in which the auction has been held. In the present case, no right had accrued to the respondent even on the basis of statutory provisions as being contemplated under Rule 8(1)(h) of Chapter III of the Scheme of Rules, 1976 and in terms of the conditions of auction notice notified for public auction.

19. The scope of judicial review in the matters of tenders/public auction has been explored in depth by this Court in a catena of cases. Plausible decisions need not be overturned and, at the same time, latitude ought to be granted to the State in exercise of its executive power. However, allegations of illegality, irrationality and procedural impropriety would be enough grounds for Courts to assume jurisdiction and remedy such ills.

17. There, the judgment in ***Tata Cellular Vs. Union of India (1994) 6 SCC 651*** was followed by the Hon'ble Supreme Court, wherein the Hon'ble Supreme Court has summarized the decision as under:-



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“94. The principles deducible from the above are:

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract.”

18. Unless a *mala fide* is established, the decision of the authority floating the tender cannot be questioned. Therefore, it is open for the petitioner either to file an appeal under Section 11 of the Tamil Nadu Transparency in Tenders Act, 1998 or in the alternative, to participate in the tender that was floated on 14.07.2025. The last date for offering the bid will expire on 29.07.2025. At best, the petitioner can be given liberty to make his offer pursuant to the fresh auction that was floated on 14.07.2025.



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19. Therefore, the petitioner is permitted to participate in the proposed auction. The respondents shall treat the Earnest Money Deposit (EMD) in item Nos.1 and 3 of the Tender Notification, dated 14.07.2025 as valid for the said participation. In case, the petitioner offers fresh bid on 29.07.2025, the petitioner's bid shall also be considered and evaluated for the contract.

20. With such liberty, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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28.07.2025

To

1. The District Collector,
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Kanyakumari District.
2. The Assistant Director of Town Panchayat,
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3.The Executive Officer,
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C.SARAVANAN, J.

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