

Gopalakrishnan.P. vs the Commissioner

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Court : Kerala

Decided On : Oct-01-2021

Judge : Honourable Mr. Justice Anil K.Narendran,Honourable Mr.Justice K. Babu

Appeal No. : WP(C)/20815/2021

Appellant : Gopalakrishnan.P.

Respondent : The Commissioner

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN & THE HONOURABLE MR.JUSTICE K. BABU FRIDAY, THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943 WP(C) NO. 20815 OF 2021
PETITIONER: GOPALAKRISHNAN.P., AGED 60 YEARS, S/O.PARAMU, RESIDING AT ANAPPARA PUTHEN VEEDU, ANAPPARA, KADAKKAL POST, KADAKKAL VIALAGE, KOLLAM DISTRICT - 691 536. BY ADVS. V.A.AJIVAS M.MANJU (KADAKKAL)
RESPONDENTS: 1 THE COMMISSIONER, TRAVANCORE DEVASWOM BOARD, KAWDIAR

P.O., NANTHANCODE, THIRUVANANTHAPURAM - 695 003. 2 THE PRESIDENT, TRAVANCORE DEVASWOM BOARD, KAWDIAR P.O., NANTHANCODE, THIRUVANANTHAPURAM - 695 003. 3 TRAVANCORE DEVASWOM BOARD, REPRESENTED BY ITS SECRETARY, TRAVANCORE DEVASWOM BOARD, KAWDIAR P.O., NANTHANCODE, THIRUVANANTHAPURAM - 695 003. 4 ASSISTANT COMMISSIONER, TRAVANCORE DEVASWOM BOARD, ASSISTANT COMMISSIONER'S OFFICE, PUNALUR GROUP, PUNALUR. 5 SUB GROUP OFFICER, TRAVANCORE DEVASWOM BOARD OFFICE, SHIVA TEMPLE, KADAKKAL, KOLLAM DISTRICT - 691 536. 6 DEPUTY DIRECTOR, LOCAL FUND AUDIT DEPARTMENT, THIRUVANANTHAPURAM - 695 003.

SRI G.BIJU - STANDING COUNSEL, TRAVANCORE DEVASWOM BOARD THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is the successful bidder in the e-auction conducted by Travancore Devaswom Board for sale of pooja articles at Kadakkal Peedika Devaswom in Kadakkal Temple, for the year 2021-22. The petitioner bid the auction for a sum of Rs.7,11,111/-, as evidenced by Exhibit P1. In terms of the tender conditions, the petitioner remitted a sum of Rs.3,10,000/- and a further sum of Rs.46,000/-, by 29.04.2021, totaling to Rs.3,56,000/-. The balance amount to be remitted was Rs.4,31,000/-, which the petitioner has to pay in two instalments, i.e., the 2nd and 3rd instalments, on 30.04.2021 and 31.07.2021, respectively. The time limit prescribed for payment of the 2 nd and 3rd instalments were extended by Travancore Devaswom Board as

31.08.2021 and 30.09.2021, respectively, vide Ext.P5 communication dated 19.07.2021. The petitioner could not pay the 2nd and 3rd instalments within the extended time granted in Ext.P5. When there was a threat of closure of shop from the 5 th respondent Sub Group Officer of Travancore Devaswom Board, insisting

payment of the 2nd and 3rd instalments, the petitioner submitted Ext.P6 representation dated 24.08.2021, before the 1st

respondent Commissioner of Travancore Devaswom Board and

also the 4th respondent Assistant Commissioner, Punalur Group, seeking instalment facility. Thereafter, the petitioner moved this Court in this writ petition, invoking Article 226 of the Constitution of India, seeking a writ of certiorari [sic: a writ of mandamus] commanding the 1st respondent Commissioner of Travancore Devaswom Board to provide him sufficient time to pay the balance amount for sale of pooja articles at Kadakkal Peedika Devaswom in Kadakkal Temple, for the year 2021-22. The petitioner has also sought for a writ of mandamus commanding the 1st respondent to consider and finalise Ext.P6 representation.

2. Today, when this writ petition came up for admission in

the forenoon, the learned Standing Counsel for Travancore Devaswom Board was directed to get instructions as to the auction amount for the previous years, and the matter was directed to be listed at 2.00 p.m., in view of the urgency pointed out by the learned counsel for the petitioner.

3. Heard the learned counsel for the petitioner and also the learned Standing Counsel for Travancore Devaswom Board, representing the respondents.

4. The learned Standing Counsel for Travancore

Devaswom Board, on instructions, would submit that the petitioner was the successful bidder for sale of pooja articles at Kadakkal Peedika Devaswom in Kadakkal Temple, for the year 2018-19 (for a sum of Rs.7,64,119/-), for the year 2019-20 (for a sum of Rs.2,30,000/-), for the year 2020-21 (for a sum of Rs.2,60,011/-), and for the year 2021-22 (for a sum of Rs.7,11,111/-). After the remittance of a total sum of Rs.3,56,000/-, vide Exts.P2 and P3 receipts, the petitioner has

made a further remittance of Rs.75,000/- (Rs.50,000 + Rs.25,000). In terms of Ext.P5, the petitioner has to remit a sum of Rs.1,02,000/-, on or before

31.08.2021, and a further sum of Rs.1,80,000/-, on or before 30.09.2021. The learned standing Counsel would point out that Kadakkal Peedika Devaswom in Kadakkal Temple is a major temple under Punaloor Group of Travancore Devaswom Board.

5. The learned counsel for the petitioner would point out

that the petitioner, a senior citizen aged 60 years, could not open the shop for a considerably long period, on account of COVID restrictions. Despite all these circumstances, the petitioner had

made payments of a sum of Rs.50,000/- and a further sum of Rs.25,000/-, after the remittance of Rs.3,56,000/-, vide Exs.P2 and P3 receipts. Pointing out the circumstances, which prevented the petitioner from remitting the 2nd and 3rd instalments, he has already made Ext.P6 representation before respondents 1 and 4. In case any coercive steps are taken by the 5 th respondent Sub Group Officer, pending consideration of Ext.P6, the petitioner would be put to irreparable loss, injury and hardship.

6. Having considered the pleadings and materials on

record and also the submissions made by the learned counsel on both sides, this Court finds that, the petitioner has defaulted payment of the 2nd and 3rd instalments in terms of the tender

conditions, for sale of pooja articles at Kadakkal Peedika Devaswom in Kadakkal Temple, for the year 2021-22. After the payment of a sum of Rs.3,56,000/- vide Exts.P2 and P3 receipts, the petitioner could remit only a sum of Rs.75,000/- (Rs.50,000 + Rs.25,000) towards the 2nd instalment. Therefore, the petitioner has to remit a sum of Rs.1,02,000/- towards the 2 nd instalment and a further sum of Rs.1,80,000/- towards the 3 rd instalment. Considering the fact that the petitioner is a senior citizen aged 60

years, and also the fact that the total amount payable is Rs.2,82,000/-, this Court deem it appropriate to direct the petitioner to remit a sum of Rs.50,000/- with the 5 th respondent Sub Group Officer, within one week from this date. On such

remittance being made, the 1st respondent shall consider and pass appropriate orders on Ext.P6 representation made by the petitioner, within a time limit to be fixed in this judgment.

7. In such circumstances, this writ petition is disposed of with the following directions;

(i) Within one week from the date of this judgment, the

petitioner shall remit a sum of Rs.50,000/- with the 5th respondent Sub Group Officer, towards his liability to pay the 2nd and 3rd instalments, in terms of the tender conditions for sale of pooja articles at Kadakkal Peedika Devaswom in Kadakkal Temple, for the year 2021-22. On such payment being made, the 1st respondent shall consider and pass appropriate orders on Ext.P6 representation made by the petitioner, strictly in accordance with law, as expeditiously as possible, at any rate, within a further period of three weeks.

(ii) The 5th respondent shall keep in abeyance any coercive steps against the petitioner in respect of sale of pooja articles in Kadakkal Peedika Devaswom in Kadakkal Temple, till expiry of the time limit fixed

in this judgment for the 1st respondent to consider and take an appropriate decision on Ext.P6 representation, in case the petitioner remits a sum of Rs.50,000/- with the 5th respondent, within one week from the date of this judgment (01.10.2021).

Sd/- ANIL K. NARENDRAN JUDGE Sd/- K. BABU JUDGE SSK/01/10 APPENDIX
PETITIONER'S EXHIBITS: EXHIBIT P1 A TRUE COPY OF BID SUBMISSION
CONFORMATION LETTER DATED 20.03.2021. EXHIBIT P2 A TRUE COPY OF
THE RECIEPTS OF PAYMENT PAID BY THE PETITIONER. EXHIBIT P3 A
TRUE COPY OF THE RECIEPTS OF PAYMENT PAID BY THE PETITIONER.
EXHIBIT P4 A TRUE COPY OF THE CERTIFICATE ISSUED BY THE
SECRETARY KADAKKAL GRAMA PANCHAYAT. EXHIBIT P5 A TRUE COPY
OF THE NOTICE VIDE NO.R.OC.NO.459/21 N.S. DATED 19.07.2021 ISSUED

BY THE 1ST RESPONDENT. EXHIBIT P6 A TRUE COPY OF THE REPRESENTATION DATED 24.08.2021 FILED BY THE PETITIONER BEFORE THE 1ST AND 4TH RESPONDENTS. RESPONDENTS' EXHIBITS: NIL

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