

Chennai Small and Tiny Industries Association, Rep. by Its Secretary No. 2, 100 Feet Road, Velachery Chennai- 600042 Vs. the State of Tamil Nadu Rep. by Its Secretary to Government Social Welfare Department Madras-600009 and 2 Others

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Court : Chennai

Decided On : Apr-19-1999

Reported in : 1999(2)CTC304

Judge : K. Govindarajan, J.

Acts : [Constitution of India](#) -- Articles 14 and 226

Appeal No. : W.P. No. 13468 of 1998 and W.M.P. No. 20506 and 20507 of 1998

Appellant : Chennai Small and Tiny Industries Association, Rep. by Its Secretary No. 2, 100 Feet Road, Velachery

Respondent : The State of Tamil Nadu Rep. by Its Secretary to Government Social Welfare Department Madras-60000

Advocate for Def. : Mr. R. Nagarajan, Government Adv.

Advocate for Pet/Ap. : Mr. M. Venkatachalapathy, Senior Counsel For ;Mr. M. Sriram

Judgement :

ORDER

1. The petitioner has filed the above writ petition, seeking to issue for declaration, declaring that the calling for the tenders from manufactures only for the supply of sewing machines for the implementation of the scheme of free supply of sewing machines during the year 1998-1999 in the impugned notification made by the 2nd respondent published in Indian Express dated 17.8.1998, as ultrawires, unconstitutional illegal and opposed to public policy.

2. In the notification as published in the newspaper dated 17.8.1998, the director of social welfare and Nutritious Meal Programme, Chennai- 600 005 call for tenders from manufactures of sewing machines for the supply of 4000 nos. of Tailoring Model Pedaling Sewing Machines for the implementation of the scheme of free supply of sewing machines during the year 1998-1999. The members of the petitioner Association used to purchase the parts and assemble the same as sewing machines only to eliminate the petitioner such a condition has been imposed due to which members of the petitioner association cannot participate in the tenders.

3. The learned Senior Counsel for the petitioner has submitted that pursuant to the tender, when they approached this authority to issue tenders form, the authorities refused to issue the tender on the basis of that they are not manufacturers. It is submitted that calling for tender is only for the purpose of getting

sewing machines in a competitive prices and if the petitioners are permitted to participate as they did in the earlier years, they can supply a sewing machines for lesser prices. On that basis, the learned senior counsel appearing for the petitioner has submitted that the said qualification has been introduced arbitrarily only for the purpose of eliminating that petitioner from participating in the tenders.

4. Learned Government Pleader relying on Rules 125 of the Rules and Instructions governing the purchase of stones in chapter-VII has submitted that only on the basis of the said rule in the impugned Notification tenders have been called for only from the manufacturers. He has also brought to my notice, the judgment of this court in W.P.No.10447. of 1997 dated 14.7.1997 and in W.A.No.920/97 dated 31.7.1997. In both cases, the same issue came up for consideration before learned single Judge and the division Bench of this court. There also the notification was issued inviting tenders only from manufacturers. The same was challenged by the petitioners therein. A division bench of this court, while considering the said issue, held as follows:-

'We find no force in the contention of the learned counsel for the appellant. Some liberty has to be given to the state or the authorities to choose as to from which source, in their best administrative experience, the required articles should be purchased in the public interest. The mere fact that the authorities thought that in the best interest of the public and the state that a particular article has to be sought from a particular source by resort to tender, does not take away the right of life of others. No mandamus can issue to the state that they should function in a particular goods, only from a particular source or debar other sources from participating in the tender especially when non-statutory provisions have been violated'.

5. From the above, it is very clear that the petitioner cannot challenge the said restriction in calling for tenders from the manufacturers. It is for the state to choose as to from which source, the required sewing machines should be purchased in the public interest. In view of the orders passed by the Division Bench, I do not find any merits in this writ petition and the same is dismissed. No costs. Consequently W.M.P.Nos 20505 and 20507 of 1998 are also dismissed.

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