

(1989) 06 MAD CK 0004

In the Madras High Court

Case No : Writ Petition No. 8279 of 1989

S. Balakrishnan

APPELLANT

Vs

State of Tamil Nadu and another

RESPONDENT

Date of Decision : 28-06-1989

Acts Referred:

Constitution of India, 1950 — Article 226
Contract Act, 1872 — Section 10

Citation : AIR 1990 Mad 159

Hon'ble Judges : Bakthavatsalam, J

Bench : Single Bench

Advocate : A. Venkatesan, for the Appellant;

Judgement

Bakthavatsalam, J.—The petitioner seeks a declaration from this Court that the purported auction of chappal contract at the Anna Memorial

(Anna Samathi) Marina, Madras-5 which was held illegally on 12-6-1989 is null and void and to direct the second respondent to conduct a re-

auction of chappal contract and permit the petitioner to compete in the same. The petitioner claims to be an unemployed graduate, having

completed his degree course in B.Sc. It seems the authorities wanted to auction the right to collect fees for chappal in Anna Samithi, Marina and

the chappal contract was published through auction notice by M/s. Murray & Co. for a period of one year from 11-2-1989 to 10-2-1990. The

petitioner feels aggrieved by the conditions of the auction sale, especially condition Nos. 2 and 3 which are to the following effect :

Condition No. 2. A Cash deposit of 50% of the bid amount should be paid immediately, the bid is knocked down and balance paid within 7 days

from the date of acceptance of bid and execute an agreement for the due

fulfilment of the lease, failing which the deposit paid will be forfeited and re-auction conducted.

3. Only on payment of the bid amount in full, contract would be given and the successful bidder should be allowed to start his business.

2. Learned Counsel for the petitioner contends that the conditions are onerous and the unemployed graduates like the petitioner cannot be asked

to comply with such conditions and only monied people can take part in the auction if the conditions are to be complied with. I am unable to agree

with the contentions raised by the learned Counsel for the petitioner. It is purely a matter of contract with the Government and it is for the

contracting parties to decide about the conditions and only if the petitioner is able to satisfy the conditions, he can take part in the auction. The

petitioner cannot compel the State to have certain conditions which will be advantageous to him. I do not see anything wrong in conditions Nos. 2

and 3 stated supra. These conditions are published in the auction notice so that the entire amount will come to the public revenue as soon as the

auction is over before the contract is executed. As such, I am not inclined to entertain this writ petition. It is open to the State to impose any

conditions for conducting auction and it is settled law that this Court cannot interfere in such matters. The argument that the petitioner is an

unemployed graduate and he will not be able to take part in the auction because of these conditions, is not a ground to entertain a petition under

Art. 226. There is no merit in this writ and accordingly it will stand dismissed.

3. Petition dismissed.