



W.P(MD)No.2166 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.2166 of 2023
and WMP(MD)No.1940 of 2023

K.Manikandan

... Petitioner

Vs

1. The Municipality Managing Director,
Municipality Administration and
Water Supply Department, Chennai-28.
2. The Commissioner,
Kuzhithurai Municipality, Kuzhithurai,
Kanyakumari District.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to reject the tenders, wherein the technical bid and price bid, which was not submitted through offline mode, after uploading through online mode for the petition mentioned works, which was against the condition No.33 (10) of the tender condition floated in online tender notice dated 04.01.2023 published in website <https://tntenders.gov.in> and consequently direct the 2nd respondent to



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proceed in the tender process for eligible contractors in accordance with the tender conditions within time frame as fixed by this Court.

For Petitioner	:Mr.AN.Ramanathan
For R1	:Mr.J.Ashok Additional Government Pleader
For R2	:Mr.R.Baskaran Additional Advocate General Assisted by Mr.A.K.Manikkam

ORDER

The writ petition has been filed in the nature of mandamus, Mandamus, seeking a direction against the second respondent/The Commissioner, Kuzhithurai Municipality, Kuzhithurai, Kanyakumari District, to reject the tenders, wherein, the technical bid and price bid, were not submitted through offline mode, after uploading through online mode for the works mentioned in the petition, against the condition No.33 (10) of the tender condition floated in online tender notice, dated 04.01.2023.

2.The second respondent had issued a tender notice for three works namely



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WORKS:- 1) Restoration of BT road to Kurusady to Sinclair Street-1 (Unicode No 149011R057), Pastors lane to panniyani road-1 (Unicode No. 149013R064), Kodunkulam Road -1 (Unicode No. 149015R073), Compostyard to APJ Nagar (Unicode No. 149015R074) and providing cement concrete road Kadavan Vilai road (Unicode No.149012S033) in Ward No.11, 12, 13 & 15 in Kuzhithurai Municipality.

2) Restoration of BT road to Perumkulam to Kazhuvarithittai harigen colony road 1 (Unicode No. 149004R010), Nariyanvilai to Edaivilagam I (Unicode No. 149004R009), Edaitheru back side of court to Peruntheru fish market (Unicode No, 149007R035), Vilavancode road - I, (Unicode No. 149009R044) and providing cement concrete road to Karavilai road I (Unicode No. 149003S006) Edaivilagarn to Kalayankularn -I (Unicode No.149004L016) in Ward No.3,4,7 & 9 in Kuzhithurai Municipality.

3) Restoration of BT road M.S.Road (Unicode No. 149001R002) in Ward No.1 at Kuzhittrurai Municipality.

3. The writ petitioner is a registered State Level Class-I Contractor. He claims that he had participated in the aforementioned three tenders. The last date was originally fixed on 20.01.2023 at 03.00 p.m. and the time for opening of technical bid was fixed as 20.01.2023 at 3.30 p.m. The petitioner had submitted all the required documents. It is complained by the petitioner that the second respondent had refused to accept the tender



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stating that the tender should be submitted only through online. Applications submitted offline should not be accepted. The documents submitted by the petitioner through offline were rejected. Thereafter, the date was refixed as 31.01.2023. The petitioner had submitted his documents through online for works No.1 and 2. He had also submitted the documents through offline in the office of the second respondent, before 31.01.2023. This was in compliance with the condition No.33(10) of the tender rules.

4.The petitioner had stated in the affidavit that the other contractors, who had submitted their tender through online, had not submitted their documents through offline. It was also stated that the second respondent, without hearing the objection raised by the petitioner herein permitted everybody who had submitted documents offline before 31.01.2023 to upload the documents through online. This was an objection raised by the petitioner.

5.It is claimed that the second respondent has the favour of some specific individual. It is therefore claimed that the entire tender process should be interfered with by this Court.



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6.It is stated by the learned Additional Advocate General that documents were verified and on that date the successful bidder, so far as for work No.1 was granted the work. So far as, work Nos.2 and 3 are concerned, the successful bidder was one M.J.D.Constructions It is stated that said M.J.D.Constructions is primarily run by Devadas Janaka Jebangelin, who is none other than the wife of the petitioner.

7.If the petitioner alleges that the second respondent has the favour of some specific individual, the petitioner should suffer an order directing withdrawal of the contract granted to M.J.D.Constructions run by his wife. But the learned counsel for the petitioner did not expand his arguments to that extent. He has grievance only against those who had uploaded the documents through online, after they had been submitted through offline. It is the specific contention that the documents must be first uploaded through online by the individual contractor and then also submitted through offline.

8.The fact remains that certainly both the petitioner and his wife



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would have been aware of the bid amount quoted by each other and aware that either one of them would be selected as the successful bidder. This is very dangerous.

9. I would like to leave this issue to the second respondent to take a decision in accordance with rules and regulations.

10.The learned counsel for the petitioner has relied on the procedure as stated in Clause 33(10). It reads as follows:

The details of the bid security document should be submitted physically before the opening the tender. The scanned copies furnished at time of e-submission and the original bid security should be the same otherwise the tender will be summarily rejected.

Any tender must be conducted only through online. Those who want to participate should submit the documents through online. Therefore, this clause would not come to rescue of the petitioner herein.

11.In view of the above facts, the status-quo granted by this



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Court on 07.02.2023, is vacated.

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12.It is pertinent to note that both husband and wife had participated in the tender. The husband alone has filed the writ petition seeking stay of grant of tender, wherein, his wife was the successful bidder.

13. I would still reiterate the fact that the respondents should ensure that both spouses should never participate in a tender. If done so, then the respondents can always interfere with both the tenders. In this case, though it had already been declared that M.J.D.Constructions is the successful bidder, the respondents may any take appropriate action, in accordance with rules and regulations.

14.In view of the above facts, this writ petition stands dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

23.03.2023

NCS :Yes/No
Index :Yes/No
Internet:Yes/No
PNM



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To

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Municipality Administration and
Water Supply Department, Chennai-28.
2. The Commissioner,
Kuzhithurai Municipality, Kuzhithurai,
Kanyakumari District.



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C.V.KARTHIKEYAN,J.

PNM

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