

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.08.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

Cont. P. No. 1600 of 2015

VVA & Co., Water Supply,
Rep., by its Proprietor,
Mrs.Kalpana
No.400, LIG, TNHB,
Avadi, Chennai - 600 054. .. Petitioner

Vs

1.Mr.Chandramohan
The Chairman,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.

2.Mr.Rajendran
The Purchase Manager
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.

.. Respondents

PRAYER : Petition filed under section 11 of the Contempt
of Courts Act, to punish the respondent for having
willfully disobeyed the order of this Court passed in
W.P.No.24317 of 2014, dated 17.02.2015.

For Petitioner : Mr.S.Udhayakumar

For Respondent : Mr.V.Perumal for CMWSSB

O R D E R

Heard Mr.S.Udhayakumar, learned counsel appearing for

the petitioner and Mr.V.Perumal, learned counsel appearing

for the respondent Board.

2. This Contempt Petition has been filed for willful disobedience of the order made in W.P.No.24317 of 2014, dated 17.02.2015.

3. The Writ Petition was filed for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the second respondent namely, the Purchase Manager, CMWSSB, dated 11.08.2014 and 12.08.2014, insofar as it relates to the demand of additional refundable security deposit of Rs.50,000/- and to direct the second respondent to allot the work in the respective areas, which were originally assigned to the petitioner. The petitioners were not aggrieved by the award of the contract, but only with regard to the condition imposed by the Board regarding the payment of additional refundable security deposit of Rs.50,000/- in each case. The Board sought to impose the additional refundable security deposit on the ground that there were some earlier violations.

4. This Court, after hearing the learned counsel appearing for the petitioner and the learned Standing counsel appearing for the respondent Board, pointed out that from the notice issued by the respondent Board namely by the Area Engineer of the concerned area, the fine which

has been imposed on the petitioner, is on account of the diversion of the trip from the allotted place to some other place and initially this Court was of the view that the diversion was done by the petitioners/contractors or the drivers. However, this impression which was found to be incorrect on a perusal of the note submitted by the Area Engineer to the Purchase Manager regarding the diversions, which had occurred in the past, i.e., during February 2014 and April 2014. The record showed that the diversion itself was on account of the direction issued by the Officers of the Board and the diversion appeared to have been done on account of road laying work. Therefore, this Court held that the petitioners cannot be penalized and they cannot be called upon to pay a sum of Rs.50,000/- as additional refundable security deposit and the said condition in Clause 6 was quashed. The petitioner has filed this Contempt Petition alleging that the respondents have not complied with the order.

5. On notice, the learned Standing counsel appearing for the respondent Board contended that they are not insisting for the payment of Rs.50,000/- as additional refundable security deposit and the Court has rightly quashed the said condition. The said submission is placed on record. However, the learned Standing counsel appearing for the respondent Board seeks to non-suit the petitioner

by stating that the work order was issued on 11.08.2014 and the outer time limit to pay the security deposit of Rs.15,000/- expired on 25.08.2014 and therefore, the petitioner is not entitled to be allotted the said work.

6. In my view the interpretation given by the respondent is absolutely perverse and is a clear attempt to make the order passed in the Writ Petition unworkable. The respondent Board did not raise any such contention, when the Writ Petition was heard and decided. Furthermore, it has to be seen that the said outer time limit expired on 25.08.2014 and the petitioner approached this Court and filed this Writ Petition on 01.09.2014 and the Writ Petition was pending till 17.02.2015, on which date the Writ Petition was allowed. Though the respondent Board was served, they did not choose to file a counter affidavit in spite of the matter having been pending from September 2014 till February 2015 when it was decided. Even now, the respondent Board is not aggrieved by the order passed by this Court, but now seek to take very hyper technical plea that the petitioner having not paid the security deposit before 25.08.2014, he is not entitled to the work.

7. The stand taken by the Board is absolutely perverse and clearly contumacious. The time limit for complying with the other conditions except for the condition of additional refundable security deposit of Rs.50,000/-

should and shall commence only from the date on which the petitioner received the certified copy of the order namely, 26.02.2015. If any other interpretation is given, it would amount to making the order passed by this Court dated 17.02.2015 as unworkable and the respondent cannot be permitted to take such a stand which would make the order unworkable and interfere in the course of administration of justice. Therefore, the respondent Board is liable to be punished under the provisions of the Contempt of Courts Act. However, with a view to give an opportunity to the respondent Board to remedy the breach this Court is not inclined to take any harsh steps.

8. Accordingly, while recording the stand taken by the Board that they are not insisting on the payment of additional refundable security deposit of Rs.50,000/-, the petitioner is directed to remit the security deposit as per the terms of the contract, within a period of one week from the date of receipt of a copy of this order and thereafter, the respondent shall proceed to issue the work order within two weeks thereafter to enable the petitioner to commence work from the date of issuance of the work order.

In the result, the Contempt Petition is disposed of.

No costs.

Pbn

SD/-

DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER (O.S.)

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SS/CO/26/08/2015

One CC to Mr.S.Udhayakumar, Advocate SR.10639

One CC to Mr.V.Perumal, Advocate SR.10652

To

1.Mr.Chandramohan
The Chairman,
Chennai Metropolitan Water Supply
and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet, Chennai - 600 002.

2.Mr.Rajendran
The Purchase Manager
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