

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 6.7.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.19741 OF 2015

M/s.Savitha Devi

Transport Contractor No.27/19 Sannathi
Street Thiruvannamalai and District A
Partnership firm rep. by its Managing
Partner P.Savitha Devi

... petitioner

Vs

1 The Tamilnadu Civil Supplies
Corporation rep. by its Managing Director
No.12 Thambusamy Street Kilpauk Chennai-10

2 The Regional Manager
Tamilnadu Civil Supplies Corporation
Kancheepuram Region Kancheepuram

3 The Regional Manager
Tamilnadu Civil Supplies Corporation
Villupuram Region NO.1 Hospital Road
Chennai Highway Road Villupuram 605 602

4 The Regional Manager
Tamilnadu Civil Supplies Corporation
Thiruvannamalai Region Thiruvannamalai
District

... respondents

Writ Petition filed under Art.226 of the Constitution of India
praying for a Writ of Certiorarified Mandamus directing the 1st
respondent herein to process the petitioners tender and award the
contract for transportation of FCI and Non FCI foodgrains for the
period from 1.7.2015 to 30.6.2017 for Kancheepuram Villupuram and
Thiruvannamalai Regions.

For petitioner

Mr.AR.L.Sundaresan, Senior Counsel
for Ms.AL.Gandhimathi

For respondents

Mr.L.P.Shanmugasundaram, Spl.G.P.

O R D E R

By consent, the Writ Petition itself is taken up for final
disposal.

2. The petitioner would state that she is the Managing Partner of the partnership firm transporting food grains for Food Corporation of India from 1992-93 onwards. The first respondent has issued a tender notification dated 18.6.2015 and one of the conditions stipulated is that "the existing contract should produce satisfactory certificate of performance from the concerned Senior Regional Manager/Regional Manager and that the Tenderer is not eligible to participate in the tender for any region if any one of the Senior Regional Manager/Regional Manager of that region does not give a satisfactory certificate due to poor performance or brought to adverse notice due to inability to move stocks as ordered by Tamil Nadu Civil Supplies Corporation".

3. It is the specific case of the petitioner that on 16.6.2015, she applied to the second respondent for "satisfactory performance certificate" for the years 2012-13, 2013-14 and 2014-15, and the second respondent has not issued such certificate, whereas similar request made to respondents 3 and 4 met with positive response. It is also the specific case of the petitioner that she had completed the contract work during the contract period 2014-15 without any adverse orders being passed against them. The petitioner apprehends that for want of experience certificate, the tender form submitted by her may not be processed and prays for appropriate orders.

4. Mr.AR.L.Sundaresan, learned senior counsel would contend that in the light of the fact that the second respondent did not issue satisfactory performance certificate, the tender application submitted by the petitioner in response to the tender notification dated 18.6.2015 may be liable for rejection and prays for appropriate orders.

5. Per contra, Mr.L.P.Shanmugasundaram, learned counsel appearing for the respondents would submit that the application dated 16.6.2015, submitted by the petitioner to the second respondent, for satisfactory performance certificate, is under process.

6. This Court has carefully considered the rival submissions. The fact remains that one of the essential conditions for processing the application submitted by the petitioner is production of "satisfactory performance certificate" and admittedly, the petitioner has submitted a representation/ application to the second respondent on 16.6.2015, seeking issuance of the said certificate and no orders have been passed. The apprehension expressed by the petitioner is, in the event of non production/non submission of "satisfactory performance certificate", her tender application submitted in response to the tender notification dated 18.6.2015, in all probability would be rejected.

7. This Court finds considerable force in the said submission made by the learned senior counsel for the petitioner. Admittedly, the representation was submitted by the petitioner as early as on 16.6.2015. Therefore, the 2nd respondent should have passed orders on

the application/representation submitted by the petitioner and cannot reject the tender submitted by the petitioner on the ground of non furnishing of "satisfactory performance certificate".

8. In the result, the Writ Petition is disposed of and the second respondent is directed to consider the application dated 16.6.2015 submitted by the petitioner for issuance of "satisfactory performance certificate", as expeditiously as possible in accordance with law and inform the decision taken to the petitioner and shall not reject the tender application in respect of Kanchipuram Region, Transport of Food Grains in Kanchipuram District by citing the above said reason, and the respondents are directed to process the tender application submitted by the petitioner in respect of Villupuram and Tiruvannamalai Regions, if the papers are otherwise in order and in accordance with law.

9. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Managing Director
Tamilnadu Civil Supplies Corporation
No.12 Thambusamy Street Kilpauk Chennai-10
- 2 The Regional Manager
Tamilnadu Civil Supplies Corporation
Kancheepuram Region Kancheepuram
- 3 The Regional Manager
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Villupuram Region NO.1 Hospital Road
Chennai Highway Road Villupuram 605 602
- 4 The Regional Manager
Tamilnadu Civil Supplies Corporation
Thiruvannamalai Region Thiruvannamalai
District

+1 cc to Mr.L.P.Shanmuga Sundaram, Advocate,SR.33774.

Tej (co)
krd 7/7

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