

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.2572 OF 2015  
and M.P.Nos.1 and 2 of 2015

U.P.Rammaiah

.. Petitioner

Vs.

1. The Commissioner,  
Corporation of Chennai,  
'Ripon Buildings',  
Chennai - 3.

2. The Superintendent Engineer,  
Bus Route Road Department,  
Corporation of Chennai,  
'Ripon Buildings',  
Chennai - 3.

3. The Joint Commissioner (Works),  
Corporation of Chennai,  
'Ripon Buildings',  
Chennai - 3.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in connection with the impugned order passed by him in Pe.Sa.Tho.Na.Ka.No.B1/0090/2012, dated 28.01.2015 and quash the same and direct the respondents to continue the petitioner as a Civil Engineering Contractor for the Corporation of Chennai and grant him all consequential benefits.

For Petitioner : Mr.K.Venkataramani, Senior Counsel  
for M/s.M.Muthappan

For Respondents: Mr.G.Anantha Rangan  
Standing Counsel

O R D E R

Heard Mr.K.Venkataramani, learned Senior Counsel for the petitioner and Mr.G.Anantha Rangan, learned Standing Counsel for the respondents.

2. The petitioner has filed this writ petition challenging the order dated 28.01.2015, by which, the petitioner has been blacklisted from the list of contractors of the respondent Corporation.

3. The petitioner is a civil engineering contractor and registered with the respondent and said to be adjudged as a best contractor and awarded the Best Performance Award. The petitioner entered into an agreement for laying of the road and the work is stated to have commenced on 25.04.2012 and completed on 09.07.2012 and the petitioner stated that they have done the work as per specifications. The payment for work done was also sanctioned on 05.12.2013. In terms of the contract, there is an defects liable period from 09.07.2012 till 09.07.2015, that is, for a period of three years.

4. The petitioner received a notice on 30.10.2014 stating that the road work done by them is found to be damaged and the repair had to be carried out by the Corporation themselves by incurring expenses to the tune of Rs.11.71 lakhs. The petitioner was directed to pay the said amount.

5. The petitioner sent a reply dated 03.11.2014 stating that the work was executed as per the specifications and the Corporation has retained the sum of Rs.1,12,137/- for the defect liability and the amount alleged to have been spent by the Corporation is a huge sum and the petitioner cannot be directed to pay the amount. Subsequently, there was no further communication and the petitioner also submitted another representation on 17.11.2014 pointing out that they have done work to the satisfaction of the Corporation and the action proposed to be taken against them is not sustainable. Even after the explanation, the impugned order has been passed. In the impugned order, the allegation is that the petitioner has not paid the sum of Rs.11.71 lakhs within 15 days period. Consequently, the respondent Corporation has blacklisted the petitioner.

6. It is to be noted that in the show-cause notice dated 30.10.2014 there was no proposal made proposing to blacklist the petitioner as a registered contractor upon their failure to remit the amount of Rs.11.71 lakhs. Therefore, to that extent the impugned order is to be held to be unsustainable, since the same has been passed without affording opportunity to the petitioner.

7. That apart, insofar as the amount demanded from the petitioner, namely, Rs.11.71 lakhs is concerned, it is seen that no details has been furnished to the petitioner as to how the amount has been arrived at. In fact, the petitioner would state that they have done the work to the full satisfaction of the respondent Corporation and payment has been released on 05.12.2013 and a sum of

Rs.1,12,337/- has been withheld by the respondents. Therefore, prior to issuing the demand on the petitioner, the respondent ought to have furnished the full breakup details of the expenditure incurred, namely, Rs.11.71 lakhs and after affording an opportunity, should have been proceeded to recover the money. This is also not done by the respondent Corporation.

8. However, the petitioner in order to establish his bonafide is willing to pay the amount to the respondent Corporation by way of Demand Draft drawn in Indian Bank in favour of the Commissioner, Corporation of Chennai. Though this action was ought to have been done within the cut off date, the Standing Counsel for the respondents is directed to accept this payment by way of Demand Draft without prejudice to their rights.

9. Accordingly, this writ petition is disposed of in the following terms:

- (1) The impugned order blacklisting the petitioner from the list of registered contractor is quashed ;
- (2) It is left open to the respondent Corporation to initiation action against the petitioner after issuing show cause notice, if they so desire ;
- (3) The respondent Corporation is directed to accept the Demand Draft for a sum of Rs.11.71 lakhs drawn in favour of the Commissioner, Corporation of Chennai, bearing No.688279, dated 31.12.2014, which has been produced before this Court and the original Demand Draft is handed over to the learned Standing Counsel for the respondents Corporation, who received the same without prejudice to the rights of the respondent corporation; and
- (4) In the event of action is initiated by the respondent Corporation, the petitioner is entitled to place all their objections in writing and after conducting enquiry fresh order shall be passed on merits and in accordance with law.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gg

To

1. The Commissioner,  
Corporation of Chennai,  
'Ripon Buildings',  
Chennai - 3.
  2. The Superintendent Engineer,  
Bus Route Road Department,  
Corporation of Chennai,  
Ripon Buildings',  
Chennai - 3.
  3. The Joint Commissioner (Works),  
Corporation of Chennai,  
'Ripon Buildings',  
Chennai - 3.
- + 1 cc to M/s. M.Muthappan, Advocate SR.7074

CA (CO)  
Eu 11.02.15

W.P.NO.2572 OF 2015



WEB COPY