

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.Nos.26976 to 26981 of 2015

and respective M.Ps

W.P.No.26976 of 2015:

M/s.Arunai Constructions,
rep by its Partner D.Venkatesan
No.136/52, Mathalangula Street,
Tiruvannamalai - 606 001.

... Petitioner

-Vs-

- 1.The Special Chief Engineer (NH),
Chennai Circle, Chennai 600 106.
- 2.The Superintending Engineer (NH),
National Highways Department,
Chennai Circle, Chennai 600 106.
- 3.The Divisional Engineer (NH),
National Highways Department,
Vellore.
- 4.The Divisional Engineer (QC),
National Highways Department,
Vellore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 2nd respondent herein to receive the Tender document from the Petitioner in respect of the work Widening and Improvement of Abdullapuram-Moranum Road Km.11/0 - 16/4, 18/0 - 20/4, 21/4 - 24/0 up to Km.8/0 - 20/4, 21/4 - 24/250 by Tender Notification No.4/HDO/NH/2015-16 dated 28.07.2015.

W.P.No.26977 of 2015:

M/s.Arunai Constructions,
rep by its Partner D.Venkatesan
No.136/52, Mathalangula Street,
Tiruvannamalai - 606 001.

... Petitioner

-Vs-

1.The Superintending Engineer (NH),
National Highways Department,
Chennai Circle,
Chennai 600 106.

2.The Divisional Engineer (NH),
National Highways Department,
Vellore.

3.The Divisional Engineer (QC),
National Highways Department,
Vellore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 1st respondent herein to receive the Tender document from the Petitioner in respect of the work Improvement to Cuddalore-Tirukoilur-Sankarapuram Road Km 48/0 - 51/0, 52/0 - 58/0 (SH-68) as per Tender Notification No.3/HDO/NH/2015-16 dated 27.07.2015.

W.P.Nos.26978 to 26980 of 2015:

M/s.Arunai Constructions,
rep by its Partner D.Venkatesan
No.136/52, Mathalangula Street,
Tiruvannamalai - 606 001.

... Petitioner in the 3
W.Ps

-Vs-

1.The Superintending Engineer (NH),
Highways Department,
Chennai Circle, Chennai 600 106.

2.The Divisional Engineer (QC),
Highways Department, Chennai.

... Respondents in the 3
W.Ps

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 1st respondent herein to receive the Tender document from the Petitioner in respect of the work Improvements works, Strengthening works and widening works double lane to multi-lane, strengthening and improvements works in Tiruvannamalai (H) C&M Sub Division by Tender Notification No.08/2015-2016/HDO dated 22.07.2015.

W.P.No.26981 of 2015:

M/s.Arunai Constructions,
rep by its Partner D.Venkatesan
No.136/52, Mathalangula Street,
Tiruvannamalai - 606 001.

... Petitioner

-Vs-

- 1.The Superintending Engineer (NH),
Highways Department,
Chennai Circle, Chennai 600 106.
- 2.The Divisional Engineer (QC),
Highways Department,
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 1st respondent herein to receive the Tender document from the Petitioner in respect of the work Improvement works in Tiruvannamalai (H) C&M Sub Division by Tender Notification No.09/2015-2016/HDO dated 23.07.2015.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
(in all W.Ps) M/s.AL.Gandhimathi

For Respondents : Mr.A.Kumar,
(in all W.Ps) Special Government Pleader

C O M M O N O R D E R

By consent, all the Writ Petitions are taken up for final disposal.

2.The petitioner sought for receipt of the tender documents in respect of the widening and improvement of Abdullapuram-Moranum Road as per the tender notification dated 28.07.2015, work Improvement to Cuddalore-Tirukoilur-Sankarapuram Road as per the tender notification dated 27.07.2015, improvements works, strengthening works and widening works double lane to multi-lane, strengthening and improvements works in Tiruvannamalai (H) C&M Sub Division as per the tender notification dated 22.07.2015 and improvement works in Tiruvannamalai (H) C&M Sub Division as per the tender notification dated 23.07.2015. Now, the grievance of the petitioner is that despite representations being made, the Superintending Engineer (NH)

viz., respondent no.2 in W.P.No.26976 of 2015/respondent no.1 in W.P.Nos.26977 to 26981 of 2015 has not issued the Working Condition certificate.

3.Mr.A.Kumar, the learned Special Government Pleader produced instructions from the respondents, which is extracted hereunder:

" As per Tender document conditions, the Contractor has to satisfy certain qualification such as average annual turnover, similar nature of work completed, minimum quantity executed, credit facilities, bid capacity etc including the present working condition of the Plant and Machinery obtained from the concerned Divisional Engineer, Quality Control of Highways Department.

The nature of work involves immediate repair work to the road, improvements and strengthening for which the work is to be executed in a fast track manner so as to prove good riding surface to the public.

In order to achieve the progress, the condition of the machineries and equipments such as Control Hot mix plant, Paver finisher, static roller, vibrator tandem roller, earth compactor, concrete mixer machine, pin vibrator etc are to be in good working conditions (Page no.16 of Typed Set in WP.no.26978 of 2015)

So this condition was included in the tender document after the approval of the standard tender document by Board of Engineers consisting of all the Chief Engineers and Director General who is the Chairman of the BOE.

In the Page no.145 of Typed Set in WP.no.26978 of 2015 and Page no.8 of Typed Set in WP.no.26981 of 2015, the petitioner requested the Divisional Engineer, Quality Control, Chennai to issue the Quality Control Certificate for their machineries through letter dated: nil which was posted only on 25.08.2015 at 13.12 hrs at Tiruvannamalai Post Office Page no.147 of Typed Set in WP.no.26978 of 2015 and Page no.9 of Typed Set in WP.no.26981 of 2015.

The Divisional Engineer, Quality Control, Chennai will take further action including the inspection and verification of the working conditions of the plant, machineries etc after the receipt of the request from the Contractor along with relevant documents."

Based upon the said instructions, the learned Special Government Pleader submitted that the petitioner has to satisfy about the working condition as per the instructions given above.

4.Mr.AR.L.Sundaresan, the learned senior counsel appearing for the petitioner submitted that the petitioner would co-operate and produce the relevant documents, though they have given the documents already.

5.The learned Special Government Pleader submitted that appropriate inspection would be made and based upon the same, Working Condition Certificate would be issued. It is also submitted that the date for one tender is fixed as 04.09.2015 and another as 23.09.2015/

6.Considering the same, a direction is issued to the petitioner to give the relevant documents once again for the purpose of satisfying the Superintending Engineer (NH) viz., respondent no.2 in W.P.No.26976 of 2015/respondent no.1 in W.P.Nos.26977 to 26981 of 2015 and thereafter, the Superintending Engineer (NH) viz., respondent no.2 in W.P.No.26976 of 2015/respondent no.1 in W.P.Nos.26977 to 26981 of 2015 will have to issue the Working Condition Certificate. The petitioner is directed to furnish all the relevant documents by 29.08.2015 and the Superintending Engineer (NH) viz., respondent no.2 in W.P.No.26976 of 2015/respondent no.1 in W.P.Nos.26977 to 26981 of 2015 will have to complete the exercise by 31.08.2015.

7.The Writ Petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar(CSII)

/true copy/

Sub Asst. Registrar

To

1.The Special Chief Engineer (NH),
Chennai Circle, Chennai 600 106.

2.The Superintending Engineer (NH),
National Highways Department,
Chennai Circle, Chennai 600 106.

3.The Divisional Engineer (NH),
National Highways Department,
Vellore.

4.The Divisional Engineer (QC),
National Highways Department,
Vellore.

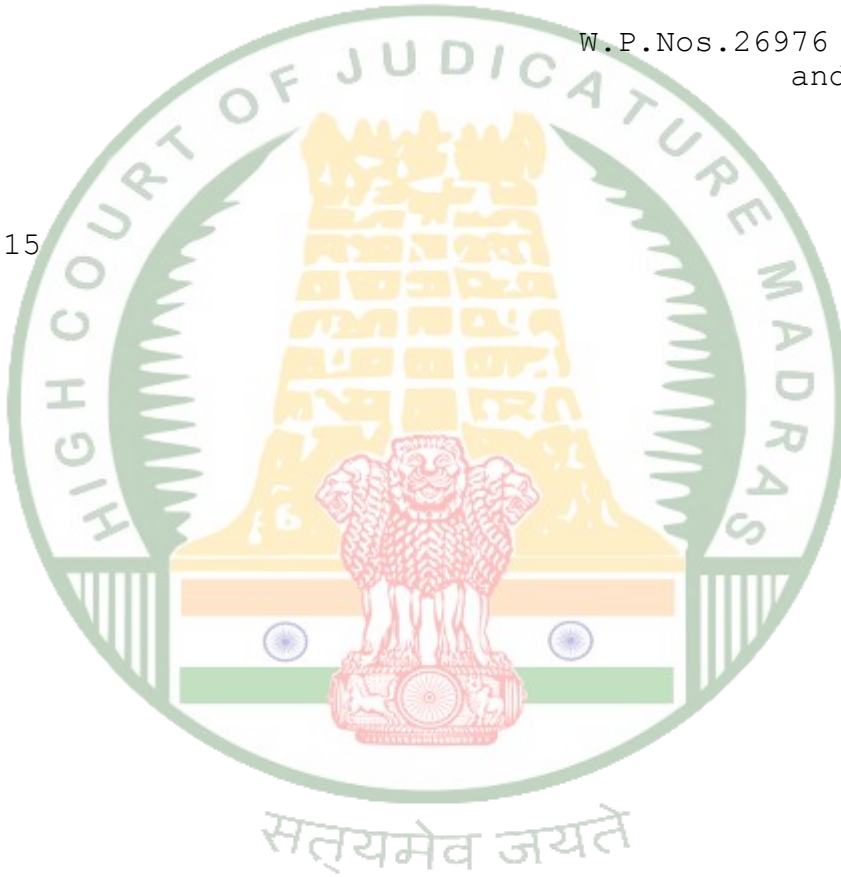
5. The Superintending Engineer
(H-C & M)
Highways Department,
Chennai Circle, Chennai-106.

6.The Divisional Engineer,
Highways Department,
Chennai

+6 cc to A.L.Gandhimathi Advocate sr.46139
+1 cc to Government Pleader sr.46175

W.P.Nos.26976 to 26981 of 2015
and respective M.Ps

pvr(co)
aa31/08/2015



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