

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-02-2015

Coram :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

Writ Petition No. 2820 of 2015
and
M.P. Nos. 1 and 2 of 2015

M/s. A.S.K. Earth Movers
Rep. by Proprietor
Mr. A. Sasikumar
No.78/17, Jaganathan Street
Agaram, Chennai - 600 082

...Petitioner

Versus

1. The Commissioner
Corporation of Chennai
Chennai - 600 003
2. The Zonal Officer
Chennai Corporation
Zone-8, No.36B, Pulla Avenue
Shenoy Nagar
Chennai - 600 030

...Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records made in impugned Re-tender notice on 29.01.2015 in Z.O.VIII.C. No.E1/10532A/2014 issued by the second respondent, quash the same, further direct the second respondent to grant work order for the period of 90 days as contemplated in the tender notice dated 23.12.2014 made in Z.O.VIII.C.No.E1/10532/2014 passed by the second respondent.

For Petitioner : Mr. S. Udhaya Kumar

For Respondents : Ms. Karthika Ashok

ORDER

The petitioner seeks for issuance of a Writ of Certiorarified Mandamus to quash the re-tender notice dated 29.01.2015 issued by the second respondent and to direct the second respondent to grant work order for a period of 90 days as contemplated in the tender

notice dated 23.12.2014 issued by the respondents corporation inviting tenders vide tender notification No. Z.O.VIII.C.No.E1/10532/ 2014 for removal of garbage from TPF (storage of garbage) to Kodungaiyur Dumping Yard by using heavy motor vehicles.

2. The petitioner participated in the tender flouted by the respondents on 23.12.2014 and offered his bid amount. Such bid offered by the petitioner was accepted at the rate of Rs.120/- per tonne for 6000 tonnes of garbage for a total value of Rs.9,60,000/- vide proceedings dated 13.01.2015 of the second respondent. Thereafter, the another tender notification dated 29.01.2015 was issued by the second respondent, which is questioned in this writ petition.

3. The learned counsel for the petitioner would contend that the impugned tender notification cannot be proceeded with by the respondents since the petitioner is entitled to continue his work for 90 days as per the work order given to him pursuant to the earlier tender notification. In this regard, reference was made to clause (4) of the tender notification dated 23.12.2014. The learned counsel for the petitioner further states that even on the basis of the work order dated 13.01.2015, the petitioner has not been permitted to remove the garbage.

4. The learned counsel for the respondents/Corporation would submit that the petitioner will be permitted to remove 6000 tonnes of garbage, if not already permitted as per the work order issued to them. However, it is submitted that the impugned tender notification is a separate notification which has nothing to do with the earlier notification and in the impugned tender notification, the petitioner can very well participate.

5. Heard the learned counsel for the petitioner and the learned Standing counsel for the respondents/Corporation. Clause 4 of the tender notification dated 23.12.2014 stipulates that bids must be accompanied with scanned copy of financial instrument towards bid security specified for the work. Bid Security will have to be in any one of the forms as specified in the bidding document and it shall be submitted at 36B, Pulla Avenue, Shenoy Nagar, Chennai - 600 030 or to the Commissioner, Corporation of Chennai and shall be valid for 90 days. The interpretation given by the petitioner that the work order given to them on 23.12.2014 is valid for a period of 90 days is therefore incorrect. The 90 days contemplated in the tender notification is the period during which bids will be validly accepted and it does not in any manner speak about the period of the contract. The contract awarded to the petitioner is for removal of 6000 tonnes of garbage at the rate of Rs.120/- per tonne. It is also seen from the records that the impugned tender notification dated 29.01.2015 flouted by the

respondents has nothing to do with the award of contract in favour of the petitioner on 13.01.2015. Therefore, the petitioner cannot question the impugned re-tender notification. The writ petition is therefore dismissed. No costs. Consequently, connected miscellaneous petitions are closed. The respondents are directed to permit the petitioner to exercise his right in pursuance of the work order dated 13.01.2015 issued to them to clear 6000 tonnes of garbage, less if any quantity already cleared. It is open to the petitioner to participate in the impugned tender. If the petitioner has not so far submitted his bid to the impugned tender notification dated 29.01.2015, they are permitted to do so within a period of three days from the date of receipt of a copy of this order.

6. After dismissal of the writ petition, the learned counsel for the petitioner submits that in the re-tender notification, which is impugned in this writ petition, unreasonable condition has been imposed by the respondents that the bidder should own 8 lorries. Such a condition, according to the learned counsel for the petitioner, is onerous and it has not been imposed in other areas or during the previous years. If it is so, it is open to the petitioner to submit a representation to the first respondent and if any such representation is received from the petitioner, the first respondent shall take note of the same and proceed further in accordance with law.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner
Corporation of Chennai
Chennai - 600 003
2. The Zonal Officer
Chennai Corporation
Zone-8, No.36B, Pulla Avenue
Shenoy Nagar, Chennai - 600 030

1 CC to Mr. S. Udhaya Kumar, Advocate SR.No. 6796
1 CC to Ms. Karthika Ashok, Advocate SR.No. 6848

WP No. 2820 of 2015

BR (CO)
PSI (12.02.2015)