

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.41757 of 2002

Ramaraju Surgical Cotton Mills Ltd.,
Rep. By General Manager Mr.Chandrasekaran,
Post Box No.2,
Rajapalayam-626 117.

.. Petitioner

Vs.

The Tamil Nadu Medical Board
Services Corporation Ltd.,
Rep., by its Managing Director,
Having its registered office
13, Whites Road, Royapettah,
Madras-17.

... Respondent

Petition is filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records on the file of the respondent in reference No.4149/PUR/2001-2002 and dated 19.03.2002, quash the same as illegal, incompetent and without jurisdiction and further direct the respondent to return the earnest money and security deposit amounting to Rs.1,00,000/- together with interest at 30.07.1999.

For Petitioner : Mr.V.Raghavachari

For Respondent : No appearance

ORDER

Despite notice having been served, none appears for the respondent.

2. It appears that an agreement was entered into between the petitioner and the respondent on 07.08.1998 for the supply of cotton for a period of one year. It is the case of the petitioner that after the expiry of the period of agreement, the respondent wanted the petitioner to make certain supply. The petitioner is stated to have asked for enhanced amount. However, the order impugned has been passed on the ground that though the purchase order has been received, the petitioner has

not effected the supply and therefore, a penalty of Rs.1,78,200/- has been imposed. Accordingly, after deducting a sum of Rs.1,00,000/-, which was pending in the account of the petitioner, the order impugned was passed for the remaining amount.

3. As recorded above, neither there is any representation on behalf of the respondent nor any counter affidavit has been filed. The order dated 19.03.2002 does not indicate that the petitioner was heard.

4. From the records, it is seen that the agreement was entered into between the petitioner and the respondent on 07.08.1998. The condition of the tender states that the tender for the supply of surgical and suture items for a period of one year from the date of acceptance was due on 18.06.1998. The purchase order was issued on 26.08.1999. It was pointed out by the petitioner in the letter dated 01.09.1999 about the increase in the cost of raw material and other input cost seeking confirmation in respect of execution of the purchase order at a higher cost and the same has not been accepted by the respondent. Thereafter, the order impugned has been passed by deducting a sum of Rs.1,00,000/- and to pay the remaining amount of Rs.78,200/-. In the said order, it is also stated that the tender was valid till the finalisation of subsequent tender. As rightly submitted by the learned counsel appearing for the petitioner that the period of one year since lapsed, there is nothing to indicate that the rate finalised in the tender would continue even thereafter. The petitioner has not been heard. The demand is unilateral. Considering the above, this Court is inclined to set aside the order impugned.

5. For the foregoing reasons, the impugned order dated 19.03.2002 is set aside and consequently, the respondent shall return the amount of Rs.1,00,000/- (Rupees one lakh only) deducted from the petitioner's account within a period of six weeks from the date of receipt of a copy of this order. The writ petition is ordered accordingly. No costs.

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-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

raa

To

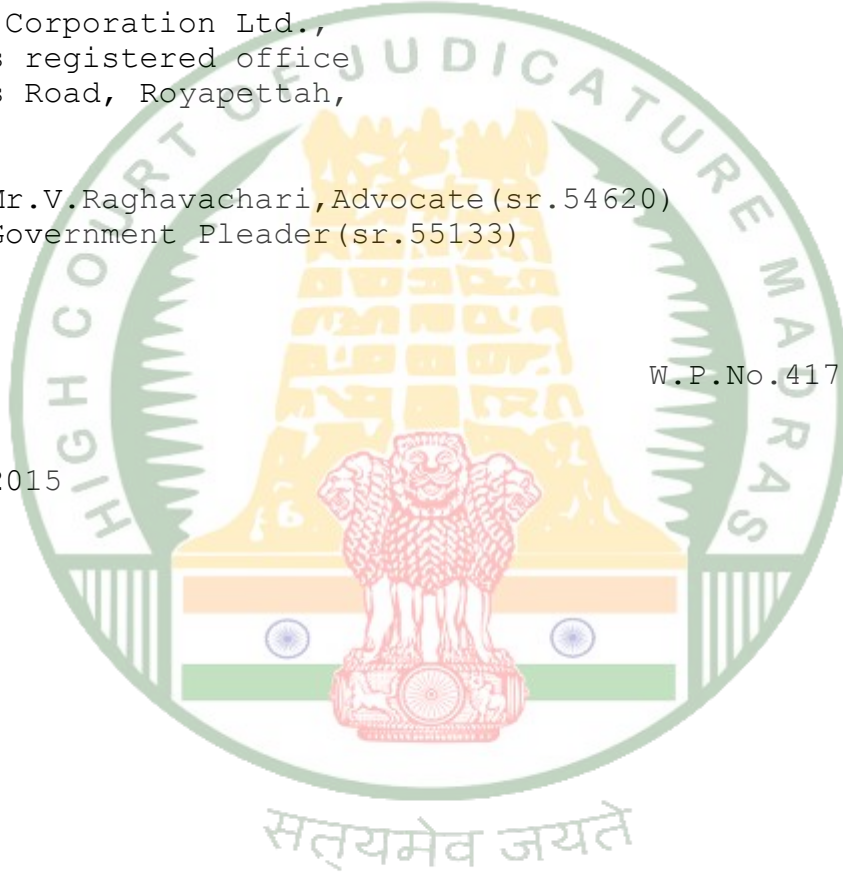
The Managing Director,
Tamil Nadu Medical Board
Services Corporation Ltd.,
Having its registered office
13, Whites Road, Royapettah,
Madras-17.

+1 cc to Mr.V.Raghavachari, Advocate (sr.54620)

+1 cc to Government Pleader (sr.55133)

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SKV(co)
cp 16/10/2015



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