



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition (MD)No.3631 of 2015

and MP(DM)No.1 & 2 of 2015

K.R.Durai.

...Petitioner

Vs.

1.The Municipal Engineer cum
Commissioner (in charge)
Pudukottai Municipality,
Pudukottai.

2.S.Arun Prasath

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the first respondent herein from confirming the lowest bid amount of the second respondent at Rs.4,55,000/- in respect of 2nd item of work mentioned in the tender notification in Na.Ka.No.25308/2014/A4, dated nil01.2015 and consequently direct the 1st respondent herein to accept the petitioner's offer of bid amount of Rs.5,00,000/- as the highest amount than the 2nd respondent in the interest of 1st respondent municipality and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.B.Jameel Arasu
For 1st Respondent : Mr.P.Mahendran

O R D E R

Today, when the matter came up for hearing, learned counsel appearing for the petitioner submitted that as per the tender notification auction has to be conducted but no auction was conducted. The tender was opened and the highest bid amount of Rs.4,55,000/- had been accepted.

2.According to the learned counsel for the petitioner, the petitioner is prepared to offer 25% more than the highest bid amount namely, over and above Rs.4,55,000/- by adding a sum of Rs.1,13,750/-. He is also prepared to deposit that amount. He would further submit that even as per clause 23 of the tender schedule, if it is deposited within 24 hours, the said claim can be considered. But this was not done by the petitioner since the date of opening of tender was not intimated to him.

3.Learned counsel appearing for the first respondent would contend that even the tender notification clearly states that if somebody deposits 20% within 24 hours, the said claim can be considered. In the instant case, after the tender was opened, the petitioner alone has come belatedly for the above said relief.

<https://hcservices.ecourts.gov.in/hcservices/>

4.Heard the learned counsel on either side and perused the materials available on record.



5. Normally in a case of tender cum auction, tender should be opened at the first instance and highest bid amount should be kept as base value and thereafter, auction should be conducted. Be that as it may, the fact remains that as per the said provision when somebody offers more than 20% of the highest bid amount within 24 hours, it can be considered by the authorities concerned. In the instant case, the petitioner has come to this Court within 48 hours and he is prepared to deposit the entire amount including 25% of the highest bid amount. Therefore, suffice to state that the petitioner will give a demand draft for the entire amount including 25% of the highest bid amount on 14.03.2015 by 05.00 p.m before the authority concerned and thereafter, the authority will place it before the Council for considering his claim and pass orders in accordance with law as per Rules.

6. Accordingly, the writ petition is disposed of. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2015 are closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To
The Municipal Engineer cum
Commissioner (in charge)
Pudukottai Municipality,
Pudukottai.

+1cc to Mr.B.Jameel Arasu, Advocate in SR.12274

+1cc to Mr.P.Mahendran, Advocate in SR.12281

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sms

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