

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 3.08.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.9676 of 2014

S.K.Perumal

.. Petitioner

Vs.

- 1.The Chief Engineer,  
Tamil Nadu Electricity Board,  
NPKKRR Maligai,  
No.144, Anna Salai,  
Chennai-600 002.
- 2.The Superintending Engineer,  
General Construction Circle - 1 (TNEB),  
No.A 10, Thiru.Vi.Ka. Industrial Estate,  
Guindy, Chennai-600 032.
- 3.B.Thangavel

... Respondents

The writ petition has been filed, under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first and the second respondents to take appropriate legal action as against the third respondent, considering the petitioner's representation, dated 22.01.2013.

For Petitioner : Mr.C.Munusamy

For Respondents : Mr.P.R.Dhilipkumar for RR1 and 2

Mr.A.Jenasenan for R-3

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ORDER

Heard the learned counsel appearing on behalf of the petitioner, as well as the learned counsels appearing on behalf of the respondents.

2 This writ petition has been preferred, praying that this Court may be pleased to issue a Writ of Mandamus, directing the first and second respondents to take an appropriate legal

action, against the third respondent, considering the representation of the petitioner, dated 22.1.2013.

3 The petitioner has stated that he is a registered Contractor of the Tamil Nadu Electricity Board (hereinafter referred to as "the Board"). He is eligible to participate in the tenders/ contracts to be awarded, by the Board, in and around the Chennai Circle, upto a sum of Rs.15,00,000/- The petitioner has been involved in carrying on the contract works, for over 15 years. The works, allotted to him, had been completed to the satisfaction of all the authorities concerned, without any deviation.

4 The petitioner has further submitted that the third respondent had been working, as an Executive Engineer (Transmission Line Constructions), Chennai, for a period of over 12 years. The relevant rules of the Tamil Nadu Electricity Board Rules states that a person should not work in a place for more than five years. While so, the third respondent had been rejecting the tenders made by the petitioner, with regard to the contract works, with an ulterior motive. By his corrupt practice, the third respondent had caused loss to the Board, to the tune of more than Rs.1000 Crores. He had also enriched himself, illegally, to the tune of over Rs.200 Crores. In such circumstances, the petitioner had submitted a number of representations to the authorities concerned, along with relevant documents, to support his claim, to prove the illegal activities of the third respondent. Further, no action had been taken by the authorities concerned, based on the complaint made by the petitioner. In such circumstances, the petitioner has preferred the present writ petition before this Court, under Article 226 of the Constitution of India.

5 In the counter affidavit filed on behalf of the second respondent, the allegations made by the petitioner had been denied. It has been stated that the office of the second respondent floated the tenders for the works related to the Transmission Line Construction. The Transformer Erection and Substation Erection contractual works pertain to the limited geographical jurisdiction. The description of the contract works are generally published, in the Tamil Nadu Generation and Distribution Corporation Limited's (TANGEDCO) website. It would also be published in the newspapers. The contractor, who intends to participate in the tender, has to follow the terms and conditions prescribed for the tender process, including the making of the Earnest Money Deposit. The tenders are opened in the presence of two responsible gazetted officers of the second respondent. Thereafter, the works are awarded to the contractor,

who satisfies all the criteria prescribed for awarding of such contractors.

6 It has been further stated that the petitioner had taken up the contractual works, as per the norms prescribed in the tender notification. However, he had delayed the process, for the completion of the works. Therefore, he had been condemned, for the delay and was disallowed from participating in the further tenders, floated by the office of the second respondent.

7 It has been further stated that the third respondent had been working in the capacity of the Executive Engineer-Civil, Transformer Line Construction Division office, under the second respondent's circle office jurisdiction. As such, he had served till 28.2.2012 and had retired, as a Superintending Engineer-Civil (Non Independent), Transformer Line Construction, Chennai. It had been further stated that there is no specific rule or proceedings of the Corporation that an officer should not continue in a single capacity, for a period of more than three years. Further, there were occasions in the office when the officers, working in the rank of the Superintending Engineers, had proceeded on medical leave, due to their ill health. The opening of the tenders would be carried out, on the due date, by the other officer, holding additional charge. Therefore, the claim of the petitioner that the third respondent had been favoring some contractors, arbitrarily, cannot be sustained. Further, an enquiry had been conducted, by the Vigilance Cell, in respect of the complaint made by the petitioner, against the third respondent. It was found that the allegations made by the petitioner were baseless and ill-founded. Hence, this Court may be pleased to dismiss the writ petition, as it is devoid of merits.

8 In the counter affidavit filed by the third respondent, it has been stated that he had entered into the service of the Board, during the year, 1979, as an Assistant Engineer. He had been promoted to the higher post, based on his hard work and dedication. Finally, he had retired from service, on 28.2.2013, as a Superintending Engineer, having 34 years of meritorious service. It has also been stated that he has an unblemished record of service and had earned the praise of his superiors, while he was in service.

9 It had been further stated that the petitioner was a registered contractor with the Board. He had been awarded a number of contractor, in the nature of civil works. He had always been irregular in completing the works awarded to him. One such contract, which was awarded to the petitioner, during the year, 2011, had been cancelled, on account of the enormous delay caused, in commencing and completion of the work.

Therefore, action had been initiated against the petitioner, for blacklisting him and an order had been passed blacklisting the petitioner, for a period of six months, during the month of August, 2011. Since the third respondent had recommended action against the petitioner, as an Executive Engineer (In-charge), the petitioner has filed the present writ petition, making false and frivolous allegations against him. In fact, after necessary action had been initiated against the petitioner, for blacklisting him, the petitioner had not participated in any of the tenders of the Board. There were no personal preferences, based on which the contract works had been allotted to various persons, who had participated in the tender process. It has been further stated that all the allegations made by the petitioner are baseless and therefore, the writ petition has to be dismissed, by this Court, with exemplary cost.

10 In view of the averments made in the affidavit filed in support of the writ petition and in the counter affidavits filed on behalf of the respondents concerned and in view of the submissions made by the learned counsels appearing on behalf of the petitioner, as well as the respondents and on a perusal of the records available, this Court is of the considered view that the allegations made by the petitioner, against the third respondent, are baseless and frivolous in nature. No evidence had been furnished before this Court, to substantiate the allegations made by the petitioner, against the third respondent. Further, from the affidavit filed by the second respondent, it is noted that an enquiry had been conducted, by the Vigilance Cell, against the third respondent, based on the complaint made by the petitioner. The allegations made in the said complaint had not been proved. On the contrary, it is noted that, due to the delay in the completion of the works awarded to the petitioner, an action had been initiated against him, during the year, 2011, by blacklisting him. Thereafter, the petitioner had not taken part in the tender process, conducted by the office of the second respondent.

11 It is also noted that the third respondent had retired from service, on 28.2.2013, after nearly 34 years of unblemished service. As such, the allegations made by the petitioner, against the third respondent, cannot be sustained. Thus, it is clear that the petitioner has made false and frivolous allegations against the third respondent, without furnishing sufficient proof to substantiate such allegations. Therefore, this Court is constrained to hold that the present writ petition, filed by the petitioner, is devoid of merits. Therefore, it is liable to be dismissed. Hence, the writ

petition stands dismissed. No costs.

vvk

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

+ 1 cc to Mr.C.Munusamy, Advocate Sr 43873

+ 1 cc to Mr.A.Jenasenan, Advocate Ssr 43879

+ 1 cc to Mr.P.R.Dhilipkumar, Advocate Sr 43826

KR/29/8/16

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