

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.1395 of 2016
and W.M.P.Nos.1169 & 1170 of 2016

M/s.Thana Industries,
rep. by its Managing Director
P.Dhanasekar Petitioner

vs.

- 1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai - 10.
- 2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Namakkal District.
- 3.The Deputy Manager,
Namakkal Region,
Tamil Nadu Civil Supplies Corporation,
Namakkal District. Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records on the file of the second respondent in Na.Ka.B1/1227/15 dated 04.12.2015 and quash the same and direct the second respondent to refund the EMD of Rs.8,50,000/- to the petitioner.

For Petitioner : Mr.V.Chandrakanthan
For Respondents : Mr.L.P.Shanmugha Sundaram,
Spl. Govt. Pleader (Co-op.)

ORDER

The petitioner has come up with the present writ petition challenging the order of the second respondent in Na.Ka.B1/1227/15 dated 4.12.2015 and to direct the second respondent to refund the EMD of Rs.8,50,000/- to them.

2. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is a firm consisting of six partners. The object of the firm is to do business as manufacture of automobile spare parts and electronic goods, road transport and / or such other business as may be decided by the partners from time to time. As per the proceedings of the second respondent, the petitioner firm has been appointed as Transport Contractor for PTMGRNMP for the year 2014-15 and accordingly, the petitioner firm performed the contract assigned by the respondents with their satisfaction.

(b) Thereafter, the respondents issued notice in the third week of July 2015 inviting tenders and the petitioner firm submitted their application in the prescribed form along with a demand draft for a sum of Rs.4,00,000/- as earnest money deposit in favour of the Tamil Nadu Civil Supplies Corporation for transporting goods from FCI depot to TNCSC Godown. Originally, the petitioner firm was selected as L2, but subsequently, the second respondent disqualified them from participating the tender stating that the petitioner firm furnished three years false experience certificate.

(c) Since the petitioner firm was disqualified to participate, they approached the first respondent to repay the EMD paid by them for all three tenders, totally a sum of Rs.8,50,000/-. However, by way of the impugned order dated 4.12.2015, the said amount was forfeited by the second respondent. Hence, challenging the same, the petitioner firm has come up with the present writ petition.

3. Today, when the matter was taken up for consideration, learned Special Government Pleader appearing for the respondents submitted that as against the order of the second respondent, the petitioner firm is having an alternative remedy of filing an appeal before the first respondent. However, without availing the same, the petitioner has come up with the present writ petition. Thus, he sought for the dismissal of the writ petition.

4. When there is an alternative remedy, this Court cannot entertain the writ petition. Hence, the writ petition is dismissed. However, the petitioner is at liberty to file an appeal before the first respondent within a period of two weeks from the date of receipt of a copy of this order and on filing such appeal, the first respondent is directed to consider the appeal and dispose of the same, on merits and in accordance with law, by affording an opportunity of personal hearing to the representative of the petitioner firm, within a period of eight

weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

sbi

To

- 1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai - 10.
- 2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Namakkal District.
- 3.The Deputy Manager,
Namakkal Region,
Tamil Nadu Civil Supplies Corporation,
Namakkal District.

- 1 cc to Mr.L.P. Shanmugasundaram, Advocate, Sr. 27312
1 cc to Mr.V. Chadrakanthan, Advocate, Sr. 27288

W.P.No.1395 of 2016

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