

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15/3/2016

C O R A M

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.29748 of 2015

VVA & Co water Supply
rep by its Proprietor
Mrs.kalpana
No.400 LIG
TNHB
Avadi
Chennai 600 054.

... Petitioner

Vs

1. The Commissioner
Avadi Municipality
New Military Road
Avadi
Chennai 600 054.

2. M.A.Mathew
Dr. Radhakrishnan Street
Nandavana Mettur
Avadi
Chennai 600 071.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the impugned order in ROC.No.10053/2014/E2 dated 19/8/2015 passed by the first respondent, quash the same and further direct the first respondent to accept the tender of the petitioner for the year 2015 - 2016 for supply of water through water tankers, allot work orders.

For Petitioner ... Mr.S.Udhayakumar

For respondent ... Mr.P.Srinivas for R.1

Mr.C.Jayakumar for R.2.

O R D E R

With the consent of the learned counsel appearing on either side, this writ petition is taken up for final disposal.

2. Heard Mr.S.Udhayakumar, learned counsel for the petitioner, Mr.P.Srinivas for the first respondent and Mr.C.Jayakumar for the second respondent.

3. This writ petition has been filed praying to quash the impugned order passed by the first respondent in ROC.No.10053/2014/E2, dated 19/8/2015 and further direct the first respondent, to accept the tender of the petitioner for the year 2015 - 2016 for supply of water through water tankers, allot work orders.

4. The case of the petitioner is that the first respondent herein had issued tender, for the supply of water through tanker lorry, for the year 2015 - 2016. The petitioner also participated in the tender, by offering his bid through E-mail and also in writing through sealed cover. But, the first respondent has accepted the tender of the second respondent, which is higher than the amount quoted by the petitioner.

5. Aggrieved against the same, the petitioner had filed a writ petition, in W.P.No.18530 of 2015, to direct the first respondent, to accept the tender, for the year 2015 - 2016 and allot work orders. This Court had disposed of the writ petition and directed the first respondent, to communicate the decision as to rejection of the tender, within a period of one week, from the date of receipt of the said order. The first respondent rejected the tender because the petitioner do not have financial turn over of Rs.4,00,00,000/- in any one year in the last three years. Hence the petitioner has come forward with the present writ petition praying for the relief as stated therein.

6. The learned counsel appearing for the petitioner would submit that there is no such condition in the tender and only to accommodate the second respondent, the aforestated condition has been incorporated, so that the tender can be given to the second respondent on a permanent basis and moreover, for supplying water through tanker lorry, there is no need for any proof of turn over, to the tune of crores of rupees.

7. The learned counsel appearing for the petitioner would further submit that as on date, the tender submitted by the parties has not been opened but only on seeing the application, the tender of three persons including the

petitioner has been rejected because there was no turn over of Rs.4.00 crores.

8. The first respondent has filed a counter stating that as per the tender conditions, the bidders should submit the tenders in two covers, viz., (i). first cover with regard to pre-qualification and (ii). the second cover containing the financial bid. In the evaluation process, it was found that out of four bidders, two bidders alone, viz., the second respondent and Mr.B.Mohanraj alone had the financial qualifications, as per the conditions mentioned in the tender. Since the petitioner as well as another bidder did not have the financial qualifications, their financial bids were not opened.

9. The learned counsel appearing for the first respondent would submit that the petitioner having participated in the tender is not entitled to indirectly challenge the conditions therein and has in fact only challenged the rejection of his tender. Hence the petitioner is not entitled to any remedy and hence prays for the dismissal of the writ petition.

10. The learned counsel appearing for the second respondent submitted a copy of the Minutes of the evaluation of technical tender by the tender evaluation Committee formed for supply of water through tanker lorries in Avadi Municipality, dated 31st March 2015, wherein it is stated that the second respondent has submitted a copy of the Chartered Auditor's Certificate, as the proof of evidence for financial turnover for 2014 - 2015 as Rs.6,28,86,750/-. It was assessed that he has satisfied the criteria prescribed in the tender document and qualified for next stage of tender i.e., financial tender opening.

11. Considering the facts and circumstances of the case and upon hearing the learned counsel appearing on either side and also taking into consideration the Minutes of the evaluation of technical tender by the tender evaluation Committee formed for supply of water through tanker lorries in Avadi Municipality, this Court is of the considered view that the conditions have been prescribed only in order to avoid any inexperienced and unqualified bidders from knocking off the bids and later leave the work unfinished or render poor quality work. In view of the above finding, this Court does not warrants any interference in the order passed by the first respondent.

12. Accordingly, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mvs.

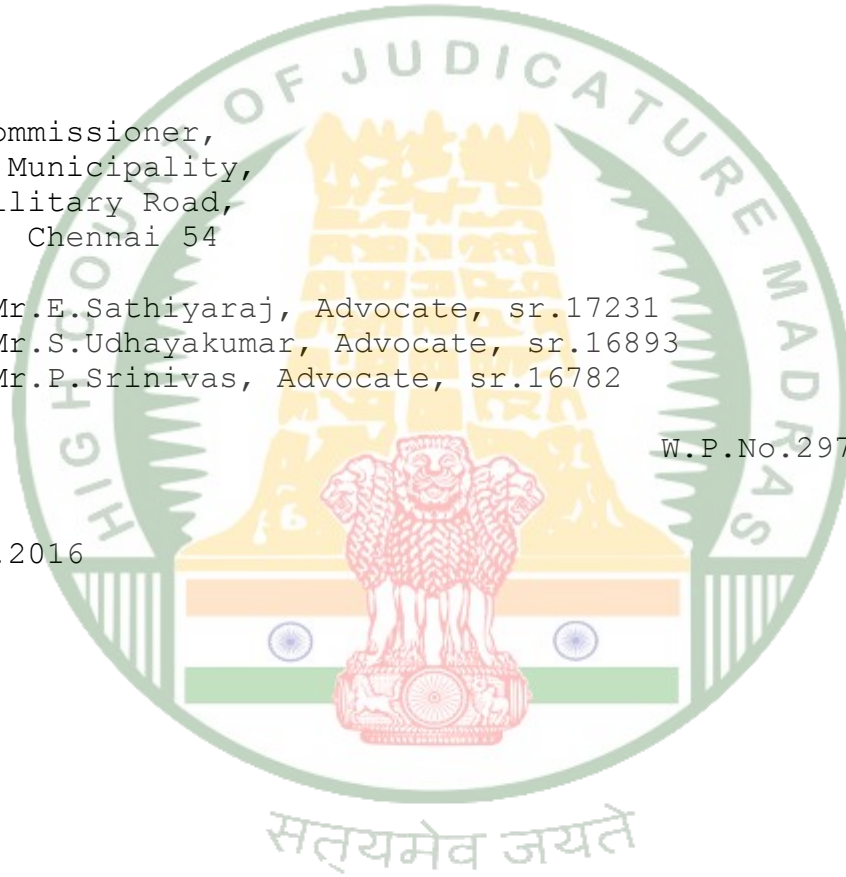
To

1. The Commissioner,
Avadi Municipality,
New Military Road,
Avadi, Chennai 54

+1 cc to Mr.E.Sathiyaraj, Advocate, sr.17231
+1 cc to Mr.S.Udhayakumar, Advocate, sr.16893
+1 cc to Mr.P.Srinivas, Advocate, sr.16782

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