

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2016

CORAM:

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P. No. 31262 of 2016
and
W.M.P. No. 27136 of 2016

M/s.Athena Security Solutions
(India) Limited
Rep. by Vishnu Mohan Choudhary
Managing Director
810, SVS Sowdha, Ayyappa Society
Madhapur, Hyderabad - 500 081. Petitioner

Versus

1. The Director General of Police/
Inspector General of Prisons,
No.1, Gandhi Erwin Road,
CMDA Tower-II, First Floor,
Egmore, Chennai - 8. Respondents
2. Turbo Consultancy Services Private Limited,
602-604, Pragati Tower,
26, Rajendra Palace,
New Delhi - 110 008. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of mandamus, to declare that the grant of tender No.38956/M.W.3/2015 dated 26.02.2016, for the supply and installation of security pole systems to 9 central prisons and 3 special prisons for women, to the 2nd respondent as invalid and consequently direct the 1st respondent to grant the said tender to the petitioner.

For Petitioner : Mr.C.Venkatraman

For R-1 : Mr.A.N.Thambidurai,
Special Government Pleader

ORDER

By consent of both parties, the present writ petition is taken up for hearing at the admission stage itself and disposed of.

2. The case of the petitioner is that they are authorized distributors of FG1 Security Pole, which is manufactured in United Kingdom by Metrasens Limited, Malvern Hills Science Park, Geraldine Road, Marlvern, UK and they have supplied the said security pole to various jails by participating themselves in

tender process. Similarly, the petitioner also participated in a tender floated by the competent authority for supply of 12 security poles for the central prisons and the special prisons for women. While so, the first respondent has invited sealed tenders for supply, installation and accessories of security pole for 9 central prisons and 3 special prisons for women from the manufacturers/ distributors/dealers. The petitioner submitted their tender for Rs.2,16,52,860/-. The second respondent also submitted their tender for Rs.10,12,500/- per unit and installation charges of Rs.11,450/- per unit excluding tax. The petitioner received a letter dated 23.08.2016 from the Additional Director General of Police/Inspector General of Prisons, Egmore, Chennai intimating that the tenders will be opened on 29.08.2016 at 3.00 p.m. Accordingly, tenders were opened on 29.08.2016 and the contract was awarded in favour of the second respondent on the basis of rate quoted by them. Challenging the order dated 29.08.2016, awarding the contract in favour of the second respondent, the petitioner has filed the present writ petition.

3. According to the learned counsel for the petitioner, the order dated 29.08.2016, awarding the contract in favour of the second respondent, is contrary to the terms and conditions of the tender. The second respondent has not quoted the terms of warranty in the price bid which is required to be quoted as per clause 36 of the terms and conditions of the tender, besides that the second respondent has not given the tax break up in the price as per clause 10 of the tender conditions. In any event, the award of the contract by the second respondent lacks a transparent procedure and it is in violation of the Tamil Nadu Transparency in Tenders Act, 1998 and the Rules made therein. Further, the petitioner has not been served with a copy of the contract awarded in favour of the second respondent inspite of a request having been made by the petitioner.

4. The learned Special Government Pleader appearing for the first respondent submitted that the writ petition is not maintainable when there is an alternative remedy of appeal provided before the Government. When such an alternative remedy is available, the petitioner ought to have restrained from filing the present writ petition invoking Article 226 of The Constitution of India. The learned Special Government Pleader also submitted that a copy of the contract awarded in favour of the second respondent will be served to the petitioner on or before 12.09.2016.

5. I heard the learned counsel for both sides and perused the materials placed on record. Normally, in matters of this nature, involving contractual dispute, judicial review is limited and this Court, in exercise of powers conferred under Article 226 of The Constitution of India. Furthermore, as rightly pointed out by the learned Additional Government Pleader for the respondents, when there is an alternative remedy of appeal, the present writ petition filed under Article 226 of The Constitution of India cannot be entertained. As regards the submission of the counsel for the petitioner that the copy of

the contract dated 29.08.2016 awarded in favour of the second respondent has not been furnished to them, the learned Special Government Pleader appearing for the first respondent submits that a copy of the order dated 29.08.2016 will be furnished to the petitioner on or before 12.09.2016. The said submission of the learned Special Government Pleader is recorded.

6. Accordingly, the present writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ogy/rsh

To

The Director General of Police/
Inspector General of Prisons
No.1, Gandhi Erwin Road,
CMDA Tower-II, First Floor
Egmore, Chennai - 8.

+lcc to Mr.C. Venkatraman, Advocate, S.R.No.50912
+lcc to the Government Pleader, S.R.No.51292

PPA(CO)
EU(09/09/2016)

सत्यमेव जयते

W.P.No.31262 of 2016

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