

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 41697 of 2016

and

W.M.P. No. 35698 of 2016

M/s. KisanKraft Machine Tools Pvt Ltd
having its office at
No.4, Sri Huchanna Towers
1st Main Road, 7-A Cross, Maruthi Layout
Dasarahalli, HAF Post
Hebbal, Bangalore - 560 024
Karnataka

represented by its Marketing Manager
and Authorised Signatory

Mr. Murali Sivalingam

.. Petitioner

Versus

1. The Director of Sericulture
Salem - 636 001
Salem District
2. Tender Scrutiny Committee
represented by the Joint Director of Sericulture
Salem - 636 001
Salem District
3. The Joint Director of Sericulture
(Tender Inviting Authority)
Salem - 636 001
Salem District
4. The Controller of Legal Metrology
The Deputy Commissioner of Labour (Inspections)
Office of the Commissioner of Labour
Chennai - 600 006

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus to forbear the respondents from rejecting the Tender of the Petitioner issued by respondents 1 to 3 for "Purchase of Shoot Harvest Pruner" (Brush Cutter) Tender notification No.20840/G1/2016 (Tender id -jds

133525) dated 10.11.2016 and 'Purchase of Power Weeder' vide Tender notification No.20843/G1/2016 (Tender id -jds 133530) dated 10.11.2016 and to conduct the same in accordance with Legal Metrology Act, 2009 and for a consequential direction without raising any issues as regards the language used in technical calibrations.

For Petitioner : Mr. V. Raghavachari

For Respondents : Mr. R.D. Senthilvel
Additional Government Pleader

ORDER

The third respondent issued a tender notification on 10.11.2016 in which the petitioner participated. The main grievance of the petitioner is that in the terms and conditions annexed to the tender notification, with respect to power of "Shoot Harvest Pruner (Brush Cutter) and Power Weeder, it has been mentioned as 'Not less than 2.10 HP @ 7000 rpm' and 3 hp @ 3000 rpm. According to the learned counsel for the petitioner, such specification of the Unit of power in Horse Power i.e., British Imperial Units is violative of the provisions of the Legal Metrology Act, 2009 instead the power ought to have been specified in Metric Units i.e., Kilo Watts. Therefore, the petitioner has submitted a representation dated 19.11.2016 to change the conditions incorporated in the tender notification as they are contrary to Legal Metrology Act. In spite of such representation, the respondents 1 to 3 have applied the norms which are not in conformity with the Legal Metrology Act, 2009 and proceeded to award the contrary in favour of the other bidders.

2. On the contrary, the learned Additional Government Pleader would contend that the petitioner's price bid was accepted, however, at the stage of evaluating the technical bid, his offer was rejected. The petitioner, having participated in the tender process, cannot challenge the terms and conditions incorporated therein and therefore, he prayed for dismissal of the writ petition.

3. I heard the learned counsel for both sides and perused the records. It is a settled proposition of law that the tender inviting authority are having every right to incorporate certain conditions and this Court, in exercise of powers under Article 226 of The Constitution, cannot interfere with the conditions incorporated in the tender notification. Further, the petitioner has participated in the tender process and on rejection of his application, he has come forward with the writ petition

challenging the terms and conditions of the tender. In such view of the matter, the prayer sought for in this writ petition cannot be granted. The writ petition is therefore dismissed. No costs. Consequently, connected WMP No. 35698 of 2016 is closed.

sd/
Assistant Registrar(CO)

/true copy/

Sub Assistant Registrar

rsh

To

1. The Director of Sericulture
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Salem District
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Salem District
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The Deputy Commissioner of Labour (Inspections)
Office of the Commissioner of Labour
Chennai - 600 006

+1cc to Mr.V.Ragavachari, Advocate SR.No.71084
+1cc to Government Pleader, SR.No.71288

WP No. 41697 of 2016

SR(CO)
GN(02/03/2017)

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