

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.7873 of 2016
and
WMP.No.7022 of 2016

G.Ramachandran

... Petitioner

vs.

1.The Chief Engineer,
(Building Construction and Maintenance)
Public Works Department,
Chepauk, Chennai - 5.

2.The Superintending Engineer,
(Electrical Circle)
Public Works Department,
Chepauk, Chennai - 5.

3.The Draughting officer,
(Electrical Circle)
Public Works Department,
Chepauk,
Chennai - 5.

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to cancel short term Tender Notification No.35/2015-16 dated 16.02.2016 on the file of respondents 2 and 3 and issue fresh tender for the electrical works and wiring in the workshop at ITI, Training Centre, Guindy, Chennai for the contract value of Rs.10,26,000/- (Rupees Ten Lakhs and Twenty Six Thousand only).

For Petitioner : Mr.G.Rajan
For Respondents : Mr.V.Jayaprakash Narayanan,
Special Government Pleader

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondents to cancel short term Tender Notification No.35/2015-16 dated 16.02.2016 on the file of respondents 2 and 3 and issue fresh tender for the electrical works and wiring in the workshop at ITI, Training

centre, Guindy, Chennai for the contract value of Rs.10,26,000/- (Rupees Ten Lakhs and Twenty Six Thousand only).

2. It is the case of the petitioner that he is the registered Class IV Electrical contractor, who is eligible to participate in the contract work for the value of Rs.15 lakhs and below and his registration has been periodically renewed by the second respondent. The second respondent has also issued a certificate vide his proceedings in Letter No.DB/DO/F.186/Regn/2015-16 dated 14.07.2015 to the effect that the petitioner's name is renewed in the live list of the registered contractors for the year 2015-16. While so, the second respondent has called for the tender for the electrical works and wiring in the workshop at ITI, Training Centre, Guindy, Chennai for the contract value of Rs.10,26,000/- in the short term Tender Notification No.35/2015-16 dated 16.02.2016. The last date for the submission of the tender is 24.02.2016 and the tender is said to be opened on 25.02.2016.

3. It is the further case of the petitioner that though the tender notification dated 16.02.2016 was signed by the third respondent on 16.02.2016 itself, notice was issued to the petitioner only on 22.02.2016 and the same was received by him on 25.02.2016. Thus, the third respondent has purportedly delayed in sending the notification, in order to prevent the petitioner from participating in the tender. On enquiry, the petitioner came to understand that most of the contractors have received the notification only on the last date of submission and some of other contractors have not even received the tender notification at all. Further, the tender notification was not published in any local newspapers and the tender schedules were not uploaded in the internet till date. Therefore, the entire tender process has been done by the respondents in unfair and arbitrary manner and also contrary to the Transparency in Tenders Act. In this regard, the petitioner made a representation dated 26.02.2016 to the respondents requesting them to cancel the said tender notification and issue a fresh tender. As there was no response, the petitioner has approached this court with the present writ petition.

4. It is contended by the learned counsel for the petitioner that the respondents, before calling for the tender for any work, ought to have issued the tender notification in the newspapers. The respondents are also obliged to upload the tender notice forms and schedules in the website, so as to enable the participants to download the same. General notification should also be given. However, insofar as the tender notification dated 16.02.2016 is concerned, the respondents have failed to follow any rules and have called for the tender in stealthy manner and awarded the contract works to their whims and fancies, without conducting the competitive bid.

Learned counsel for the petitioner also submitted that the respondents have sent the tender notifications to the contractors, after due date for the submission and opening of the tender, so as to keep away all the registered contractors from the bid. Therefore, the entire process of the tender notification dated 16.02.2016 is arbitrary and contrary to the relevant provisions of law.

5. Denying the averments raised in the writ petition, the respondents have filed a counter affidavit, wherein, in paras 7 and 8, it has been stated as follows:

"7. As per the Tender Transparency Rules for the tenders with a work value put to tender between Rs.10.00 lakhs and Rs.25.00 lakhs, the notice inviting tender should be published in two Tamil dailies and District Tender Bulletin and for the tenders with a work value put to tender above Rs.25.00 lakhs, the notice inviting tender should be published in the Newspaper/State Tender bulletin and also to be uploaded in the Tamil Nadu Websites.

8. As the work value put to tender for this subject work is Rs.10,26,000/-, the tender notice was published in two local Tamil Dailies namely Dr.Namadhu MGR (Tamil vernacular) and Makkal Kural on 17.02.2016 through the Public Relation Officer, as per standard department procedure and thus, wide publicity was given. This being a short term tender notice, the short term necessitated by the requisition of the user department. Hence, the due date was fixed on 25.02.2015 as per norms/guidelines for the short term tender. This tender notice was also published in the State Tender Bulletin on 18.02.2016 and in the office Notice Board after the confirmation of the publication and bulletin. The tender notice was despatched on 19.02.2016. However, no requisition or paid up treasury Challan was received from the petitioner from 17.02.2016 to 20.02.2016. This shows that he did not have any serious intention nor taken any effort to bid for the tenders."

6. I have considered the submissions made on either side and have perused the materials placed before this court.

7. In this writ petition, the petitioner sought for a direction to the respondents to cancel the short term tender notification No.35/2015-16 dated 16.02.2016 and to issue fresh tender for the electrical works and wiring in the Workshop at ITI, Training Centre, Guindy, Chennai for the contract value of

Rs.10,26,000/- on the allegation that the respondents have not advertised the tender notification as per law and have delayed in sending the tender forms to the contractors, so as to award the contract work to their whims and fancies. However, it is specially averred in paras 7 and 8 of the counter affidavit filed by the respondents that as per the Tender Transparency Rules, tender notice for the works in question was published in two local Tamil Dailies viz., Dr.Namadhu MGR and Makkal Kural on 17.02.2016 and also in the State Tender Bulletin on 18.02.2016, but no requisition or paid up treasury challan was received from the petitioner from 17.02.2016 to 20.02.2016, which shows that the petitioner have no serious intention or taken any effort to bid for the tender. In such circumstances, I am of the view that the respondents have complied with all the formalities as per law, before calling for the tenders for the work in question and no interference is warranted in respect of the tender notification no.35/2015-16 dated 16.02.2016. Therefore, the writ petition is devoid of merits and the same is liable to be dismissed.

8. Accordingly, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Chief Engineer,
(Building Construction and Maintenance)
Public Works Department,
Chepauk, Chennai - 5.

2.The Superintending Engineer,
(Electrical Circle)
Public Works Department,
Chepauk, Chennai - 5.

3.The Draughting officer,
(Electrical Circle)
Public Works Department,
Chepauk, Chennai - 5.

+1cc to M/S.G.Rajan, Advocate Sr.19958
+1cc to the Government pleader sr.19721

W.P.No.7873 of 2016

sns (CO)
srg (06/04/2016)



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