



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P(MD).Nos.2871 and 2872 of 2016  
and  
WMP(MD).Nos.2539 to 2542 of 2016

N.Mariappan ... Petitioner in W.P.(MD).No.2871/2016  
S.Duraipandi ... Petitioner in W.P.(MD).No.2872/2016  
Vs.

The Superintending Engineer (H), C&M,  
(Highways), Tirunelveli Circle,  
Tirunelveli-2

... Respondent in both WPs

Common prayer:- Writ Petitions filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the Tender Notice No.26/2015-2016/Val dated 20.01.2016 on the file of the Respondent and quash the same and consequently direct the Respondent to conduct a fresh tender by calling for fresh notification.

For petitioners : Mr.Puhazh Gandhi

For Respondent : Mr.M.Raja Rajan,  
Additional Government Pleader

#### COMMON ORDER

The petitioners seek for a Writ of Certiorarified Mandamus calling for the records pertaining to the Tender Notice No.26/2015-2016/Val dated 20.01.2016 on the file of the respondent and quash the same and consequently direct the Respondent to conduct a fresh tender by calling for fresh notification.

2. Both the Writ Petitions have been filed on the ground that inspite of having submitted applications with the respondent, he has not issued tender form to them. Secondly, even as per the Website maintained by the respondent, it did not open till 04.02.2016 to enable the petitioners to download the tender forms and submit the same to the respondent. That apart, since minimum 15 days of time was not given as per the Tamil Nadu Transparency in Rules 2000 nor the petitioners are able to download the tender forms, they want to quash the tender notification and consequently conduct a fresh tender.

3. When the matters came up for hearing on 10.02.2016, this Court directed that the auction shall go on and confirmation alone was stayed and further directed the respondents to get instructions on this aspect.



4. On instructions, the learned Additional Government Pleader submitted that first of all, there is no averment in the affidavits filed in support of the Writ Petitions as to when they approached the respondent for providing with the tender forms and for which work, they are ready to participate. According to him, the petitioners have not even submitted an application with the respondent nor sent any request through post seeking tender forms. The petitioners want to stall the process of the tender process in one way or the other for the best reasons known to them. In other words, they are nothing but usurpers. He further submitted that auction was already over and on account of court proceedings, confirmation alone is yet to be passed.

5. In a given situation, as per the Tamil Nadu Transparency in Rules 2000, this Court directed the petitioners that if they want to participate in the tender, they can do so, subject to payment of 25% of the more amount quoted by the highest bidder, especially, even though the time limit was available only 24 hours, yet, this Court, in view of the submission of the learned Counsel for the petitioners, permitted them to challenge the tender process, to which, the learned Counsel for the petitioners sought time to get instructions from the petitioners. Accordingly, both the Writ Petitions were ordered to be posted today.

6. Today, when the matters are taken up for hearing, the learned Counsel for the petitioners fairly conceded that they are not ready to participate in any of the auction conducted by the respondent. Similarly, they are not ready to deposit 25% of the more amount quoted by the other bidders. Further, as rightly pointed out by the learned Additional Government Pleader, that there is no whisper to the effect that they have made a representation seeking tender form. Therefore, this Court cannot come to the rescue of the petitioners. Under those circumstances, this Court has no option but to dismiss both the Writ Petitions.

7. Accordingly, both the Writ Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(P & A)

/True copy/

Sub Assistant Registrar

To

The Superintending Engineer (H), C&M,  
(Highways), Tirunelveli Circle,  
Tirunelveli-2

+1cc to Mr.Puhazh Gandhi, Advocate SR.NO.11161

+1cc to Mr.G.V.Vairam Santhosh, Advocate SR.No.10720

+1cc to special Government Pleader SR.No.10986

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