

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2017

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P.No.5578 of 2017
and W.M.P. Nos. 5937 & 5938 of 2017

M/s. D.S.R.Sons India Engineers Pvt. Ltd.,
Rep.by its Managing Director,
D.S.Ravikumar
No.49, HIG, Vallal M.G.R. Salai
NH-1, Maraimalai Nagar
Kancheepuram District 603 209

...Petitioner

Vs.

1. The Superintending Engineer,
Bus Route Roads Department,
Greater Chennai Corporation,
Corporation of Chennai, Chennai - 600 003.
2. The Commissioner,
Greater Corporation of Chennai,
Rippon Building (Main),
Chennai - 600 003.
3. The Executive Engineer,
Bus Route Roads Department,
Corporation of Chennai, Rippon Building,
Chennai - 600 003.

सत्यमेव जयते.....Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus or order or direction in the nature of a writ calling for the records relating to the tender notification in BRR.C.No.B1/0368/2017 which was published in Indian Express daily dated 02.02.2017 on the file of the 1st respondent and quash the same insofar as the work no.18 is concerned and direct the 1st respondent to conduct re-tender for the Work No.18 after furnishing the Machinery Certificate to the petitioner.

For Petitioner .. Mr. S. Doraisamy
For Respondents.. Mr. C. Manishankar, AAG
Asst. by Mr.P.V.Selvakumar,AGP

ORDER

The petitioner has come before this Court challenging the tender notification which was published in The Indian Express on 02.02.2017 issued by the first respondent as far as work no.18 is concerned and to direct the first respondent to conduct re-tender for the aforesaid work after furnishing the Machinery Certificate to the petitioner.

2. The petitioner participated in the bid dated 02.02.2017 floated by the first respondent for work no.18. The petitioner applied to the 3rd respondent for furnishing the Machinery Certificate, which is one of the pre-conditions for participating in the bid. Even though the petitioner applied to the 3rd respondent for Machinery Certificate on 10.02.2017, so far, the said Certificate has not been issued by the 3rd respondent. Meanwhile, the last date for submitting the tender was closed on 01.03.2017. Therefore, the petitioner, through E-tender process, applied and tried to submit the documents required, viz., hard copy of the Price Bid, Technical Bid and E.M.D. on 01.03.2017 at 10.30 a.m. However, the concerned official was not available. Therefore, the petitioner tried to submit the same to the tender clerk Ms.Uma at the office of the Superintending Engineer, Greater Chennai Corporation, who refused to receive the said document. Therefore, the petitioner sent an email on 01.03.2017 at 12.48 p.m. giving the details of what has happened. Meanwhile, the petitioner also sent the documents by RPAD which, was refused to be received by the respondents.

3. When the matter was taken up for hearing in the forenoon session, Mr.C.Manishankar, learned Additional Advocate General sought time till 2.15 p.m. for getting instructions. The concerned officer was also directed to be present. When asked about the refusal of the cover sent by the petitioner, it is informed by the official that the cover was not accepted by the respondents, since it was received beyond 03.00 p.m., which is the cut off time for receiving the document on 01.03.2017.

4. However, Mr. S. Doraisamy, learned counsel appearing for the petitioner would submit that the petitioner has already applied through E-tender process and only the bank guarantee has to be submitted in original, which is contained in the returned cover. He would also state that the details of the bank

guarantee have been given in page 41 of the typed set of papers and also scanned bank guarantee has been enclosed at page.37.

5. This Court, on verification, found that the scanned copy also has been enclosed in the typed set of papers.

6. Convinced that the petitioner has already sent the documents through postal cover, which is said to contain the bank guarantee, the respondents wanted to verify as to whether the cover contains the original bank guarantee. Therefore, this Court directed opening of the cover in the open Court. On opening the cover, the original bank guarantee is found. The officials also verified the same.

7. The learned Additional Advocate General would submit that since the petitioner has complied with submission of the tender documents in time and had also applied for Machinery Certificate which is also available, the petitioner's bid shall also be considered along with that of the eligible tenderers.

8. Since the petitioner's grievance has been addressed by allowing the petitioner to participate in the bid as per the notification dated 02.02.2017, the respondents are directed to consider the petitioner's bid, along with the bids submitted by other bidders, and thereafter, finalise the bids as per law.

9. After opening the Technical Bid and shortlisting the eligible bidders, a 24-hour notice is given through SMS to the eligible bidders intimating them about the time, place and date of opening of the Price Bids. Therefore, if the petitioner is eligible, he will definitely be getting the information. The cover which has been opened in the open Court, along with the Price Bid, has been entrusted to the official respondents, who are present before this Court. The respondents shall take a decision as per law.

This writ petition stands disposed of with the above direction and observation. No costs. Consequently connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CSV)

True Copy

Sub-Assistant Registrar

To

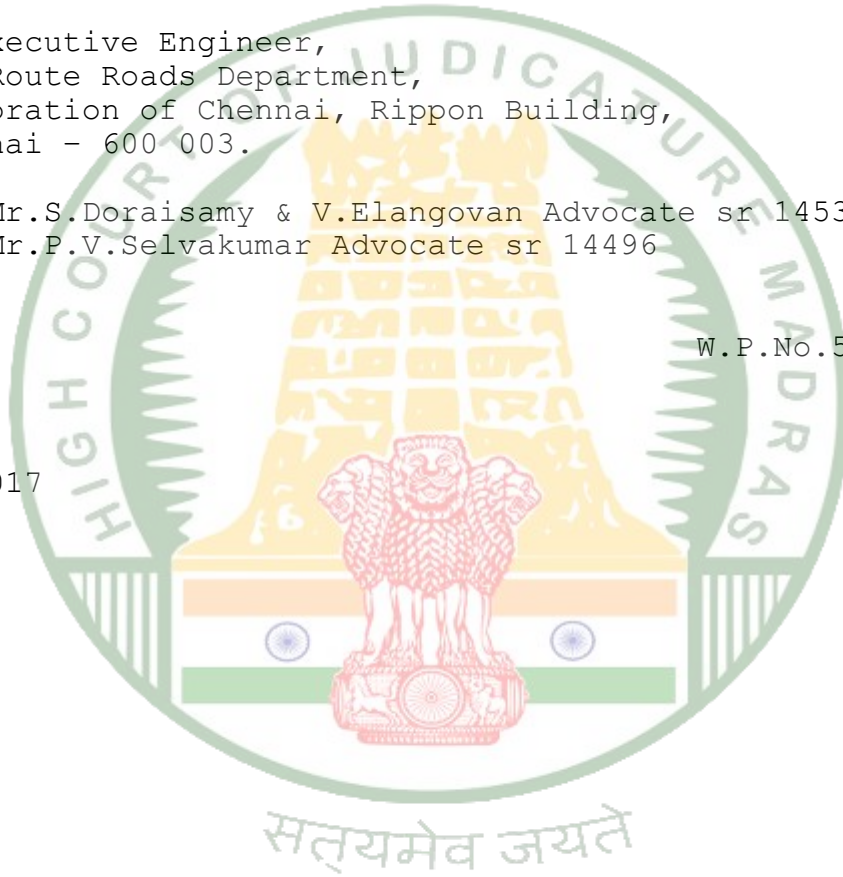
1. The Superintending Engineer,
Bus Route Roads Department,
Greater Chennai Corporation,
Corporation of Chennai, Chennai - 600 003.
2. The Commissioner,
Greater Corporation of Chennai,
Rippon Building (Main),
Chennai - 600 003.
3. The Executive Engineer,
Bus Route Roads Department,
Corporation of Chennai, Rippon Building,
Chennai - 600 003.

+1 cc to Mr.S.Doraisamy & V.Elangovan Advocate sr 14535

+1 cc to Mr.P.V.Selvakumar Advocate sr 14496

W.P.No.5578 of 2017

vgII(co)
aa24/03/2017



WEB COPY