

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2017

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.6865 of 2017
and
W.M.P.No.7444 of 2017

M/s.V.Sinraju Constructions,
rep. by its Managing Partner,
V.Sinraju,
No.23/136, 6th Ward,
Keeripatti Post,
Attur Taluk,
Salem District.

... Petitioner

Versus

1.The Project Director,
District Rural Development Agency,
Collector Office Campus,
Salem.

2.The Excutive Engineer,
District Rural Development Agency,
Collector Office Campus,
Salem.

... Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus to direct the first respondent to permit the petitioner to participate in the tender viz., TENDER NOTICE REFERENCE No.Roc. No.2150/2016/A5 dated NIL which is to be held on 24.03.2017 on the file of the first respondent in respect of Works Nos.1 to 4, 14, 80, 85, 90 and 91 without insisting upon the machinery working condition certificate from the second respondent as per invitation for prequalification Clause 7(ii) & (iv) of the information and instruction for bidders.

For Petitioner
For Respondents

: Mr.S.Doraisamy
: Mr.S.Pattabiraman,
Government Advocate

ORDER

This writ Petition has been filed praying for issuance of a Writ of Mandamus to direct the first respondent to permit the petitioner to participate in the tender viz., TENDER NOTICE REFERENCE No.Roc. No.2150/2016/A5 dated NIL which is to be held on 24.03.2017 on the file of the first respondent in respect of Works Nos.1 to 4, 14, 80, 85, 90 and 91 without insisting upon the machinery working condition certificate from the second respondent as per invitation for prequalification Clause 7(ii) & (iv) of the information and instruction for bidders.

2. The only grievance of the petitioner is that as per the tender notification, the petitioner should establish that the machineries available are in working condition. Therefore, immediately after the tender notification, he had applied for such certificate from the competent authority. Even though the application of the petitioner was received by the authority on 16.03.2017 itself, till date, they have not chosen to issue the certificate. As the last date for submission of tender is 24.03.2017, the petitioner apprehends that he could not participate in the tender without the certificate. It is further contended that by such condition, the persons like the petitioners were indirectly prevented from participating in the tender.

3. In similar circumstances, this Court by order dated 01.03.2017 in W.M.P.Nos.5489 & 5490 of 2017 has passed the following order:

.''.The learned counsel for the petitioner would contend that the petitioner has made a request of the second respondent dated 20.02.2017 to issue working condition certificate and findout the availability and feasibility fo the machineries, which has not been inspected so far. Since the last date of submission of tender is on 02.03.2017, the petitiner may be permitted to participate in the tender, subject to proving the capacity and availability and usability of the machineries.

In view of the above the petitioner is permitted to participate in the tender. In the meanwhile, the second respondent is directed to inspect the machineries on 02.03.2017.''

4. Having regard to the submissions of the counsel for the petitioner and the order passed by this Court in identical circumstances, mentioned above, the respondents are directed to permit the petitioner to participate in the tender of course with the certificate to be issued by the respondents. In the

meanwhile, the respondents shall cause inspection of the machineries on or before 22.03.2017 and issue the certificate before 23.03.2017 itself. Accordingly, the writ petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Project Director,
District Rural Development Agency,
Collector Office Campus,
Salem.

2.The Excutive Engineer,
District Rural Development Agency,
Collector Office Campus,
Salem.

+1cc to Mr.Doraisamy, Advocate, S.R.No.17463

MPI (CO)
RS (22/03/2017)

Writ Petition No.6865
of 2017

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