

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2017

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

Writ Petition No.3153 of 2017

and

W.M.P.No.3089 of 2017

M/s.Excel Engineering Enterprises
rep. by its Proprietor G.Kumaresan ... Petitioner

vs.

1.The Commissioner,
Ambur Municipality,
Ambur, Vellore District.

2.Karthikeyan
3.Prem Anand

4.The District Collector,
Vellore.

5.The Regional Director of
Municipal Administration,
Vellore.

6.The Commissioner of
Municipal Administration,
Chepauk, Chennai - 5.

7.The Director,
Vigilance and Anti Corruption,
Chennai.

8.V.Manivasakam ... Respondents

(R8 impleaded vide order dated
05.04.2017 in W.M.P.No.7789
of 2017 in W.P.No.3153 of 2017)

Writ petition filed under Article 226 of the
Constitution of India, praying for a Writ of mandamus directing
the respondents to cancel the tender in Na.Ka.No.1595/2016/E1
dated 14.10.2016 on the file of the first respondent and direct
the first respondent to conduct re-tender.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.S.T.S.Moorthy,
Addl. Advocate General
assisted by
Mr.V.Jayaprakash Narayanan,
Spl. Govt. Pleader
for R1 to R3
Ms.M.E.Raniselvam,
Addl. Govt. Pleader for R4 to R7
Mr.S.Kalimuthu for R8

ORDER

The petitioner is one of the tenderers along with four others for the purpose of laying a road. The tender involves two cover system. One is a technical bid and another is a price bid. The technical bid was supposed to be opened on 16.11.2016. It is the case of the petitioner that when the representative of the petitioner went to the office of the first respondent on 16.11.2016, no technical bid was opened but he came to know later that it was awarded.

2.Learned counsel appearing for the petitioner would submit that apart from not following the procedure, the process involves extraneous factors. The successful bidder was confirmed for other works.

3.Learned Additional Advocate General produced all the records, based upon which, he submits that on 16.11.2016, the tender was opened as mandated under the conditions stipulated under the schedule itself. Therefore, there is no question of issuing any notice to the tenderers. He further submits that two tenderers have participated and they have signed. Communications have been sent to three persons, whose technical bids were rejected. The fourth person's technical bid was accepted and thereafter, on negotiation, the price bid was also accepted. The entire process was approved by the Committee constituted as seen from the records and resolution was also passed by the local body thereafter. A work order was issued and 50% of the work is also over. It is further submitted that the petitioner made a representation for the first time after 20 days and by the time, substantial process is already over, including the resolution.

4.The disputed questions of fact cannot be gone into by this Court. The allegations are denied. Apart from the same, the work, which has already been allotted, is in progress and half of the work is already over. Therefore, interfering at this stage will create more problem. Hence this Court is not inclined to exercise its discretion. This Court is unable to give any adverse opinion after going through the records. Three ledgers

have been produced. Prima facie it appears that there is no tampering of the records.

5. In such view of the matter, this Court is not inclined to interfere with the work in progress at this stage. However, it is made clear that in future as and when the technical bid is rejected the reasons will have to be communicated through registered post apart from sending e-mail to the tenderers concerned. Such a communication will have to be sent within three days from the date of statutory rejection. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Commissioner,
Ambur Municipality,
Ambur, Vellore District.

2. The District Collector,
Vellore.

3. The Regional Director of
Municipal Administration,
Vellore.

4. The Commissioner of
Municipal Administration,
Chepauk, Chennai - 5.

5. The Director,
Vigilance and Anti Corruption,
Chennai.

+1 CC Govt. Pleader, sr.20840

+1 cc to Mr. N. Umapathi, advocate, sr.20589

+1 cc to M/s. S. Doraisamy, advocate, sr.20527

+1 cc to M/s. V. Jayaprakash Murugan, advocate, sr.20399.

ad(co)
krd 10/4

W.P.No.3153 of 2017