

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2017

CORAM :

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.3662 of 2017
and WMP.No.3719 of 2017

S.Mahadevan ... Petitioner

vs.

1. The Chief Engineer (General)
Corporation of Chennai,
Rippon Building, Chennai - 600 003.
2. The Superintending Engineer
Bus Route Roads Department,
Rippon Building,
Corporation of Chennai, Chennai - 600 003.
3. The Executive Engineer
Bus Route Roads Department,
Corporation of Chennai, Rippon Building,
Chennai - 600 003. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus, directing the respondents to permit the petitioner to participate in the tender, viz., E-Retender Short Tender Notice in BRR.C.No.B1/0368/2017, which was published in the English Daily, viz., the New Indian Express, dated 02.02.2017 on the file of the second respondent in respect of Work Nos.1 to 6 without insisting upon the certificate issued by the third respondent under Clause 3.4(e) of the instruction to Bidders.

For petitioner : Mr.S.Doraisamy
For respondents : Mr.P.V.Selvakumar

ORDER

This writ petition has been filed for issuance of writ of mandamus directing the respondents to permit the petitioner to participate in the tender, viz., E-Retender Short Tender Notice in BRR.C.No.B1/0368/2017, which was published in the English Daily, viz., the New Indian Express, dated 02.02.2017 on the file of the second respondent in respect of Work Nos.1 to 6

without insisting upon the certificate issued by the third respondent under Clause 3.4(e) of the instruction to Bidders.

2. Mr.S.Doraisamy, learned counsel appearing for the petitioner would submit that the petitioner being a Class-I contractor and doing contract work under the respondent Corporation and other Departments for the past 5 years, proposed to take part in the tender issued by the second respondent calling for E-Retender Short Tender Notice in BRR.C.No.B1/0368/2017, which was published in the Indian Daily, namely "Indian Express", dated 02.02.2017 for the purpose of attending to temporary restoration of 18 road works damaged due to floods (Two cover system). But the tender documents were available only on 09.02.2017 in the website of the respondent Corporation. As per the tender notification, it is stated that the bid must be submitted online before 15.02.2017 till 15 Hrs and it will be opened at 15.30 Hrs on the same day in the office of the Interior Road Department in the presence of the bidders.

3. As the petitioner proposed to participate for the work Nos.1 to 6, after downloading the schedule on 09.02.2017 went through the terms and conditions and finally found that the machinery certificate duly certified by the EE/BRR has to be enclosed in the technical bid compulsorily clearly mentioning the work under which scheme the tender is called and tender specific as followed in the Highways Department. Clause 3.4(e) in the instructions to bidders would further say that if the said certificate is not enclosed the tender would be rejected summarily without assigning any reasons. Adding further he would submit that the petitioner is in possession of all the machineries mentioned in Clause 3.4(e). The third respondent has issued a certificate earlier in September 2016 for the tender for Restoration of Road Cut Zone-1, stating the he is owning the under mentioned machineries :

1. Central hot mix plant
2. Paver Machine
3. Static Roller
4. Water Lorry
5. Vibrator Tandam Roller
6. Mechanical Sprayer and
7. Tipper Lorry.

4. Therefore, the petitioner has submitted an application to the first respondent on 10.02.2017 and again on 11.02.2017 to the third respondent to issue machinery certificate. For the reasons best known to them, they are delaying, so as to see that the petitioner should not take part in the tender. Therefore, the petitioner has come to this Court apprehending further delay.

5. At this point of time, Mr.P.V.Selvakumar, learned counsel appearing for the respondents would submit that the request of the petitioner for the issuance of machinery certificate would be duly considered within one week from today since the opening of the tender has been postponed to 01.03.2017.

6. Recording the said statement that the opening of the tender has been postponed to 01.03.2017 and the third respondent would issue machinery certificate to the petitioner within one week from today, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Engineer (General)
Corporation of Chennai,
Rippon Building, Chennai - 600 003.
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Corporation of Chennai, Chennai - 600 003.
3. The Executive Engineer
Bus Route Roads Department,
Corporation of Chennai, Rippon Building,
Chennai - 600 003.

+1cc to Mr.S. Doraisamy, Advocate, S.R.No.9828

br(CO)
md(16/02/2017)

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