

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 11.10.2017**

**CORAM**

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN**

**And**

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

**W.A.No.1594 of 2013**

S L N Builders,  
Rep. by its Managing Partner  
B.Sukumar

... Appellant

Vs.

1.The State of Tamil Nadu, represented by its  
Secretary to Public Works Department,  
Fort St.George, Chennai – 9.

2.The Chief Engineer (Buildings)  
Public Works Department, Chepauk, Chennai – 5.

3.The Superintending Engineer, PWD  
Buildings & (Maintenance) Circle  
PWD, Chepauk, Chennai – 5.

... Respondents

**Prayer:**

Writ appeal filed under Clause 15 of Letters Patent against the  
order of this Court made in W.P.No.6319 of 2008 dated 14.03.2013.

For Appellant : Ms.S.Vijayalakshmi  
For Respondents : Mr.V.Anandha Murthy  
Additional Government Pleader

**J U D G M E N T**

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

The appellant is a registered Contractor with the Public Works Department. The appellant earlier filed a writ petition in W.P.No.35903 of 2007 seeking a Writ of Mandamus directing the respondents to publish the tenders in Newspapers in terms of the procedure provided under the Tamil Nadu Transparency in Tenders Act, 1998. The said writ petition was dismissed by the learned Single Judge. Thereafter, the appellant filed a writ petition in W.P.No.6319 of 2008 challenging the Government Order in G.O.Ms.No.42 Public Works (G2) Department, dated 23.02.2007 permitting the Public Works Department to award works by nomination, in case the total amount of the work is less than Rs.3 Lakhs. The learned Single Judge dismissed the writ petition primarily on the ground that such nomination works are permissible and that the appellant himself took up similar works on earlier occasions. Feeling aggrieved by the order dated 14.03.2013 in W.P.No.6319 of 2008, the un-successful writ petitioner is before this Court.

2.We have heard the learned counsel for the appellant. We have also heard the learned Additional Government Pleader appearing on behalf of the respondents.

3.The challenge before the writ Court was to the order in G.O.Ms.No.42 Public Works (G2) Department, dated 23.02.2007 permitting the Public Works Department to allot works by nomination, in case the tender amount is less than Rs.3 Lakhs. The Government has justified the said Government Order on the ground that at times urgent works had to be undertaken at the residence and offices of the Judges, Ministers and other Higher Officers and it would not be possible to float tenders for such works. It was the contention of the Government before the writ Court that even the appellant was awarded 12 similar works by nomination and as such, the appellant was aware of the procedure adopted by the Government for awarding such works.

4.The counter affidavit filed by the Government indicates that the Government has issued orders from time to time for carrying out the urgent works on nomination basis with certain limited financial powers. The Superintending Engineers and Executive Engineers were entrusted to take up maintenance and repair works of the buildings in the possession of the Judges, Ministers and Members of the Legislative Assembly since such works would require immediate attention. It would not be possible to call for tenders and process the same in

accordance with the Tamil Nadu Transparency in Tenders Act, 1998, given the nature of works and the urgency of the situation.

5.The materials available on record clearly indicates that only in case the work is so urgent, the Superintending Engineer and Executive Engineer would give the contract by way of nomination. It was only to take up the renovation works which requires immediate attention, the Government have issued the impugned order in G.O.Ms.No.42 Public Works (G2) Department, dated 23.02.2007. The Government order permits only limited repair/ renovation works and there is also a financial limit prescribed by the Government with regard to the total expenditure. The Government Order was issued in larger interest to take care of the Government buildings. This aspect was considered by the learned Single Judge and the writ petition was rightly dismissed. We do not find any reason to take a different view in the matter.

6.In the upshot, we dismiss the intra court appeal. No costs.

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[K.K.S.,J.]

[P.V.,J.]

11.10.2017

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Speaking Order/ Non Speaking Order

Index: Yes / No      Internet: Yes / No

To

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