



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2017

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THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P.(MD)Nos.12020 and 12021 of 2017

and

WMP(MD)Nos.9245, 9246, 9248, 9249, 11554 & 11555 of 2017

D.Punniyamoorthy : Petitioner in WP No.12021/2017
R.Chinnadurai : Petitioner in WP No.12020/2017

-vs-

- 1.The District Collector,
Thanjavur District.
- 2.The Project Director,
District Rural Development Agency,
Thanjavur District.
Thanjavur.
- 3.The Manthirachalam,
The Project Director,
District Rural Development Agency,
Thanjavur District,
Thanjavur.
- 4.Thiru Elavarasan : Respondents in both W.Ps.

Prayer in W.P.(MD)No.12020 of 2017: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders of the 2nd respondent, dated 17.06.2017 published in web-site and quash the same in so far as package Nos.5 & 24 in Tender Notification Ref.RC No.9000/2016/A5, dated 08.05.2017 are concerned and consequently, direct the respondents 1 and 2 to permit the petitioner herein to participate in the price bid in respect of package Nos.5 and 24 in Tender Notification Ref No.Rc No.90000/2016/A5, dated 08.05.2017.

Prayer in W.P.(MD)No.12021 of 2017: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders of the 2nd respondent, dated 17.06.2017 published in web site and the consequential impugned orders of the 2nd respondent in Na.Ka.No.9000/2016/A5, dated 23.06.2017 and quash the same in so



far as package Nos.3 & 4 in Tender Notification Ref.RC No.9000/2016/A5, dated 08.05.2017 are concerned and consequently, direct the respondents 1 and 2 to permit the petitioner herein to participate in the price bid in respect of package Nos.3 and 4 in Tender Notification Ref No.Rc No.90000/2016/A5, dated 08.05.2017.

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For Petitioners	: Mr.C.Jeganathan for M/s.Veera Associates (in both the WP's)
For R1 to R3	: Mr.G.Muthukannan Government Advocate (in both the WP's)
For 4 th Respondent	: Mr.J.Ragavh Prakash (in both the WP's)

COMMON ORDER

The writ petitions have been filed challenging the rejection of the tender document of the petitioners on the ground that they are not technically qualified and for a direction to permit them to participate in the price bid.

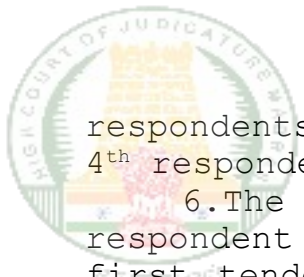
2.The case of the petitioners is that the 2nd respondent floated E-tender notification, on 03.03.2017 for various public works in Thanjavur District under two cover system viz., technical bid and price bid. The petitioners applied through on-line system. In the said tender, there were 3 applications. While considering the technical bid, the applications of the 4th respondent and one another were rejected, as they were not found technically qualified. Eventually, the 2nd respondent cancelled the tender itself on 10.05.2017 on the ground of single tender.

3.The petitioner in W.P.(MD)No.12020 of 2017 would state that he submitted application for package Nos.5 and 24 and the petitioner in W.P.(MD)No.12021 of 2017 had applied for package Nos.3 and 4 and they were found technically qualified, however, their applications were rejected on the ground of single tender.

4.It is the further case of the petitioners that the 2nd respondent issued a tender notification on 08.05.2017 calling for applications for the said packages. The petitioners have submitted fresh applications for the same packages, however, they received message on 17.06.2017 that their applications were rejected. On enquiry, they came to know that out of three applications, only the 4th respondent was selected in the technical bid and he was also awarded the work. The petitioner in W.P.(MD)No.12021 of 2017 challenged the work order, dated 23.06.2017.

<https://hcservices.ecourts.gov.in/hcservices/>

5.1 have heard Mr.C.Jeganathan, learned counsel for the petitioners, Mr.G.Muthukannan, learned Government Advocate for the



respondents 1 to 3 and Mr.J.Ragavh Prakash, learned counsel for the 4th respondent and perused the materials available on record.

6.The main contention of the petitioners is that the 4th respondent Elavarasan was found not technically qualified in the first tender and the first tender was cancelled on the ground of single tender and that awarding of work in the second bid to the 4th respondent is illegal and that in the second tender, the 4th respondent was a single tenderer.

7.The first respondent/the District Collector, Thanjavur has filed a counter stating that the 1st tender notification, dated 03.03.2017 was rejected and in the 2nd notification, the 4th respondent/N.Elavarasan was selected based on the guidelines of THAI Schemes. Further, the 4th respondent had commenced his work on 24.06.2017 itself and completed more than 20% of the work. It is further stated that the applications of the petitioners were rejected as they were not Civil Engineers and they have no equipment and machineries for digging tank. The 4th respondent also filed a counter similar to that of the first respondent.

8.Perusal of the report of the Advocate Commissioner and the photographs would reveal that the 4th respondent has already commenced the work, pursuant to the order issued by the first respondent/the District Collector, Thanjavur.

9.In the instant case, it is not in dispute that the price bid was already opened, in which the 4th respondent was declared as successful bidder, as per the guidelines of THAI Scheme and work order was issued and he had commenced the work. Further, the petitioners have an appeal remedy, but without exhausting the alternative remedy provided under the Act, have straightaway approached this court.

10.In the light of the above facts, in the considered view of this court, the petitioners are not entitled for the reliefs sought for in the writ petitions. In that view, both writ petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector, Thanjavur District.

2.The Project Director,

District Rural Development Agency, Thanjavur District, Thanjavur.

+2ccs to M/s.Veera Associates, Advocate, SR.No.76818

+4ccs to M/s.V.Sasikumar, Advocate, SR.Nos.76991 and 76992

+One cc to The Special Government Pleader, SR.No.77320

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RL/10C/3P/KKR/SAR1/5/2/2018

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