



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P (MD) No.21512 of 2017

and

WMP (MD) No.17792 of 2017

M/s.Dharani Hi-Tech Projects Pvt. Ltd.,
rep. by its Authorized Representative,
No.28, Annavasal Street,
Mannarkudi, Thiruvarur District.

... Petitioner

Vs.

1.The Project Director

DRDA, Pudukkottai, Pudukkottai District.

2.The Executive Engineer

DRDA, Pudukkottai, Pudukkottai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to issue working condition certificate as required under clause 7 of the information and instruction for bidders under two cover system of invitation of technical bid in Package No.NABARD RIDF XXIII (2017-2018) in respect of package Nos.1 to 13 on the basis of the representations of the petitioner dated 06.11.2017 and 17.11.2017 forthwith and further to direct the respondents to permit the petitioner to participate in the tender pursuant to invitation of technical bid in package No.NABARD RIDF XXIII (2017-2018) in respect of package Nos.1 to 13 without insisting for production of working condition certificate/machinery possession certificate required to be issued by the second respondent by allowing the petitioner to produce the same as and when the same is issued by the second respondent.

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.T.S.Mohamed Mohideen
Additional Government Pleader

O R D E R

This writ petition has been filed, seeking a Writ of Mandamus, directing the second respondent to issue working condition certificate as required under clause 7 of the information and instruction for bidders under two cover system of invitation of technical bid in Package No.NABARD RIDF XXIII (2017-2018) in



respect of package Nos.1 to 13 on the basis of the representations of the petitioner dated 06.11.2017 and 17.11.2017 forthwith and further to direct the respondents to permit the petitioner to participate in the tender pursuant to invitation of technical bid in package No.NABARD RIDF XXIII (2017-2018) in respect of package Nos.1 to 13 without insisting for production of working condition certificate/machinery possession certificate required to be issued by the second respondent by allowing the petitioner to produce the same as and when the same is issued by the second respondent.

2. Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader takes notice for the respondents.

3. By consent, the writ petition itself is taken up for final disposal.

4. According to the learned Counsel for the petitioner, the first respondent issued an E-tender of invitation for qualification application and price tender through electronic tendering system and two cover system under Package No.NABARD RIDF XXIII (2017-2018) for as many as 13 packages. The works under the tender are relating to strengthening and upgradation of roads within Pudukkottai District. The petitioner applied for the same. The E-tender document was published in the internet only on 01.11.2017 and the date of opening of the tender is fixed as 24.11.2017. As per the calendar of the tender, the date of pre-bid meeting was on 14.11.2017 and the bidding documents on website would be made available between 09.11.2017 and 24.11.2017 upto 03.00 p.m., and the last date and time for online submission of the tender is fixed on 24.11.2017 at 03.00 p.m. and online opening of tender is fixed as on 24.11.2017 at 04.00 p.m.

5. Further, it is stated by the learned Counsel for the petitioner that though the petitioner made a representation dated 06.11.2017 in person, seeking to issue certificate of possession of machineries in terms of Condition No.7 contained in the informations and instructions for bidders for technical bid of the E-tender, there is no response forthcoming on the side of the second respondent. Thus, the petitioner sent a reminder dated 17.11.2017. However, the same has not yet been considered so far.

6. The main grievance of the petitioner is that the delay in obtaining the certificate from the second respondent would prejudice the interest of the petitioner in participating in the E-tender and thus, the said condition No.7 be treated as a directory one and not a mandatory to enable the petitioner to participate in the tender process. The petitioner, who claims to be a contractor, apprehends that in the event of non-production of the said certificate, the petitioner may be disqualified from participating in the tender process and hence,

he prays for appropriate orders.

7. Per contra, Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader appearing for the respondents, drawing the attention of this Court to the paragraph 3 of the counter affidavit filed by the second respondent, submits that the respondents have not received any letter dated 06.11.2017 from the petitioner. Further, he submits that the Executive Engineer (RD), by letter dated 21.11.2017 called upon the petitioner for conducting inspection of the place of tools and plants and the same has been sent to the petitioner on 22.11.2017 and that the last date for submission of the tender is fixed on 04.12.2017 at 03.00 p.m.

8. Heard both sides and perused the materials available on record.

9. Considering the facts and circumstances of the case, this Court, without going into the merits of the petitioner's claim, directs the petitioner to submit a copy of the application for Working Condition Certificate as required under Clause 7 of the Information and Instruction for bidders under Two Cover System of invitation of technical bid in Package No.NABARD RIDF XXIII (2017-2018), dated 06.11.2017 to the second respondent forthwith and on such filing, the second respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner, on or before 01.12.2017.

10. Accordingly, this writ petition stands disposed of as above. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar

To

1.The Project Director

DRDA, Pudukkottai, Pudukkottai District.

2.The Executive Engineer

DRDA, Pudukkottai, Pudukkottai District.

+1cc to Mr.B.SARAVANAN,Advocate,SR. 89540

W.P (MD) No.21512 of 2017

27.11.2017

RM