



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2017

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD) No.4522 of 2017

and

W.M.P(MD)No.3622 of 2017

A.Atheeswaran

...Petitioner

Vs.

1.The District Collector,
O/o.The District Collector,
Madurai District,
Madurai.

2.The Commissioner of Geology and Mining,
O/o.the Commissioner of Geology and Mining,
Thiru Vi.Ka.Industrial Estate,
Alandur Road,
Guindy,
Chennai -32.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to confirm the tender and declare the petitioner as a successful bidder for the auction for the Item No.1 in the Tender notification in Na.Ka.No.345/2016 dated 14.02.2017 on the file of the first respondent and consequently permit the petitioner to quarry in Survey No.418 of 66 Mettupatti Village, Vadipatti Taluk, Madurai District within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.T.R.Janarthanam,
Additional Government Pleader

ORDER

The petitioner has filed this Writ Petition for issuance of a Writ of Mandamus directing the respondents to confirm the tender and declare the petitioner as a successful bidder in the auction conducted for Item No.1 mentioned in the Tender notification in Na.Ka.No.345/2016 dated 14.02.2017 on the file of the first respondent, within a stipulated time and to permit the petitioner to quarry in Survey No.418 of 66 Mettupatti Village, Vadipatti Taluk, Madurai District.



2. The petitioner would among other things aver that the first respondent called for tender for stone quarrying in the Government Poramboke lands in the above said lands vide proceedings in Na.Ka.No.345/2016 dated 14.02.2017. The petitioner participated in the tender and he enclosed all the necessary documents such and Demand Draft to a sum of Rs.1500/-, Earnest Money Deposit to a tune of Rs.25000/- along with 10% advance amount of Rs.18,00,000/- of the tender amount of Rs.1,77,05,000/- and the documents were also duly accepted by the Committee on 09.03.2017.

3. The case of the petitioner is that during the open auction, all the participants were tending to raise the amount upto 21 Crores, which is neither viable nor practically suitable for rough stone quarrying and therefore, the successful bidder simply refused to pay the advance amount of 10% of the tender amount and since the second and third highest bidders also with malafide intention did not claim themselves as successful bidders.

4. In these circumstances, those who have raised the auction amount to 21 Crores were not even prepared to pay the 10% advance amount and hence the petitioner claims to be the highest bidder and hence, he has come forward with the present writ petition with the above said prayer.

5. Counter affidavit has been filed by the first respondent, wherein in Paragraph No.17, it has been stated as follows:

"..17.It is respectively submitted that as per Rule 8(5)(b)(vi) of the Tamil Nadu Minor Mineral Concession Rules, 1959, the District Collector had called upon the second highest bidder to make payment for the grant of lease in favour of him. Moreover, the second highest bidder also did not come forward to accept the offer given by the District Collector. The District Collector shall have the option to continue the same process of application of the next below rule and on the contrary bring the quarry for re-auction and re-tender. The writ petitioner had quoted the tender amount for the subject quarry to the tune of Rs.1,77,05,000/- which is over and above the upset price fixed by the Government. However, it is open to the District Collector that the tender/bid amount fetched for an area is reasonable in the circumstance of the case, the District Collector can accept the payment of 10% of the tender amount in the interest of augment of revenue to the Government. The claim of the writ petitioner would be considered only after affording opportunity to the succeeding highest bidders

per Rule 8(5)(b)(vi) of the Tamil Nadu Minor Mineral Concession Rules, 1959. Hence the writ



petitioner cannot claim any rights and demand the District Collector to proceed immediate action and acceptance of tender amount quoted by him..."

6. At this juncture, the learned counsel appearing for the petitioner would submit that it is suffice if the first respondent is directed to consider the representation of the petitioner dated 11.03.2017 based on the reply given by him in paragraph No.17 of the counter affidavit that the claim of the writ petitioner would be considered only after affording opportunity to the succeeding highest bidders as per Rule 8(5)(b) (vi) of the Tamil Nadu Minor Mineral Concession Rules, 1959 and to declare the petitioner as a successful bidder.

7. For that, the learned Additional Government Pleader does not have any objection for considering the claim of the petitioner.

8. In view of the same, the first respondent is directed to consider the representation of the petitioner, dated 11.03.2017 and dispose of the same within a period of twelve weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar.

To

1.The District Collector, O/o.The District Collector,
Madurai District, Madurai.

2.The Commissioner of Geology and Mining,
O/o.the Commissioner of Geology and Mining,
Thiru Vi.Ka.Industrial Estate,
Alandur Road,Guindy, Chennai -32

+1CC to M/S.T.Lajapathi Roy, Advocate, SR.No. 60482

+1CC to the Special Government Pleader SR.No. 60602

W.P(MD)No.4522 of 2017
20.06.2017