

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.7.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1497 of 2018
and
C.M.P.Nos.11850 & 11851 of 2018

M/s.Premier Garments Processing
rep. by its Proprietor Ibrahim Sha
No.29, Govindan Street, T.Nagar,
Chennai. Appellant/Petitioner

Versus

1. The Divisional Railway Manager,
Southern Railway, Salem Division, Salem.
2. The Senior Divisional Mechanical Engineer,
Southern Railway, Salem Division,
Salem. Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters
Patent against the order dated 3.7.2018 passed in W.P.No.16494
of 2018 on the file of this court.

Prayer in W.P.No.16494 of 2018:

Writ Petition filed Under Article 226 of the Constitution of
India, Praying for the issuance of a writ of Certiorari, calling
for the records relating to the impugned order of the 2nd
respondent herein in letter dated 27.06.2018 in Letter No.SA/
M271/ MCC/ED/2018 and quash the same.

For appellant : Mr.AR.L.Sundaresan, Senior Counsel
for M/s.A.L.Ganthimathi

For respondents: Mr.P.T.Ramkumar, (Railways)

JUDGMENT

(Judgment of the court was made by M.DHANDAPANI, J.)

The intra court appeal, is filed by the writ petitioner challenging the order passed by the learned Single Judge dismissing the writ petition and thereby declining to interfere with the impugned order of termination of contract, dated 27.6.2018 issued on the ground of non-furnishing of bank guarantee within the time stipulated.

2. The case of the appellant/writ petitioner, is that the appellant, being successful bidder, was entrusted with the contract for mechanized cleaning of primary maintenance trains, watering and cleaning of PFTR Trains, watering of coaches of pass through trains at Erode Station and cleaning of depot premises at Erode Coaching Depot for a period of four years.

3. It appears that the appellant was given letter of acceptance by the Southern Railway on 15.3.2018 and thereupon, the appellant had to deposit 10% of the contract value within 30 days from the date of issuance of the letter of acceptance which they have not complied with and they have not requested for extension of time for making such deposit, by way of any written representation and further, they have not even made any written representation to exercise the extension of time by further 30 days as contemplated under the contract and therefore, the impugned termination notice was issued by the Southern Railway which has been upheld by the learned Single Judge on appreciating the above factual aspects in an elaborate manner. We do not find any reason to interfere with the same. However, while concluding, the learned Single Judge has upheld the debarring clause restraining the appellant from participating in re-tender as provided under Clause 16(4) of GCC 2014. We are of the view that such a decision taken by the Southern Railway without notice to the appellant cannot be endorsed. Therefore, the order passed by the learned Single Judge sofar as it upholds such a debar clause is set aside. The Southern Railway shall issue show cause notice to the appellant appellant calling for explanation and thereafter, by following due process of law they can pass orders on merits and in accordance with law.

4. With the above observation, the writ appeal is disposed of. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Divisional Railway Manager,
Southern Railway, Salem Division, Salem.
2. The Senior Divisional Mechanical Engineer,
Southern Railway, Salem Division, Salem.

+1cc to M/S.A.L.Gandhimathi, Advocate Sr.45463
+1cc to Mr.P.T.Ramkumar, Advocate Sr.45651

W.A.No.1497 of 2018

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srg 19/07/2018

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