

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2018

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.6904 of 2018

and

W.M.P.Nos.8547 & 8548 of 2018

Indian Major Port & Dock Officers' Association

Reg.No.46/2018

Rep. by its President

No.1/675, 1st Street,

Muthamizh Nagar, Chennai-600 118.

... Petitioner

vs.

1. State of Tamil Nadu

Rep. by its Secretary to Government

Fort St.George,

Chennai-9.

2. The Superintending Engineer

Mining and Monitoring Circle

Public Works Department /

Water Resources Department

Chepauk, Chennai-600 005.

3. Chennai Port Trust

Represented by its Chairman

Rajaji Salai,

Chennai-600 001.

..Respondents

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to 2nd respondent's Tender Notification No. : NIT No.4/2017-2018/(M&M) CIRCLE / CHENNAI dated 05.03.2018 and to quash the same and consequently, direct the 2nd respondent to include the name Chennai Port Trust in the Bid called for import of natural river sand.

For Petitioner : Mrs.Subhalaxmi Samanta

For Respondents : Mr.Vijay Narayan

Advocate General

assisted by Mr.R.Govindasamy,

Special Government Pleader

Mr.C.Vigneswaran

Government Advocate

for R1 & R2

Mr.R.Karthikeyan

standing counsel for R3.

O R D E R

This writ petition is filed challenging the tender notification dated 05.03.2018 issued by the second respondent. Consequently, the petitioner seeks for a direction to the second respondent to include the name of Chennai Port Trust in the Bid called for import of natural river sand.

2. Heard Mrs.Subhalaxmi Samanta, learned counsel for the petitioner, Mr.Vijay Narayan, learned Advocate General for the respondents 1 and 2 and Mr.R.Karthikeyan, learned standing counsel for the third respondent.

3. The petitioner is an association, having its members working as Class I and II Officers under the third respondent. The second respondent issued the impugned tender notification on 05.03.2018, inviting on-line tender from the eligible contractors for importing approximately five lakhs tonnes of natural river sand for construction purposes per month for a period of two years through three Ports in the State of Tamil Nadu, namely, (1) Kamarajar Port Limited, Ennore (2) Adani Kattupalli Port Private Limited, Kattupalli and (3) V.O.Chidambaranar Port, Tuticorin.

4. The present writ petition is filed by the petitioner's Association, by expressing their grievance that the second respondent has left out the third respondent Port, also as a Port to import the river sand along with the other three Ports referred to in the notification. In other words, it is the contention of the petitioner that if the third respondent Port is also included, it would give benefits to the members of the petitioner and other people, by such import through various kind of labour & employment.

5. The learned Advocate General submitted that the decision to include those three Ports referred to in the notification was made only after considering various technical aspects and feasibility and therefore, exclusion of the third respondent Port cannot be cited as a ground to question the tender notification.

6. On the other hand, the learned counsel for the petitioner submitted that the Chennai Port Trust has every facility and feasibility to import the river sand and therefore, the second respondent can consider to include the said Port also in the tender notification.

7. This Court, at this stage, is not inclined to go into the above issue, more particularly, when the fact remains that it is for the tender inviting authority to choose the place and nature of the work to be executed under the contract, with which,

neither the petitioner nor any other person can have a say. Fixing the place of business is a matter which for the tender inviting authority / owner to consider and decide before inviting tenders and hence, the petitioner or even an intending bidder has no role even to say or suggest as to which place will be either more suitable or better than the one already selected by the owner. Therefore, I find that the present writ petition, at the instance of the petitioner is totally misconceived and thus, does not have any merit. Accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary to Government
State of Tamil Nadu
Fort St.George,
Chennai-9.

2. The Superintending Engineer
Mining and Monitoring Circle
Public Works Department /
Water Resources Department
Chepauk, Chennai-600 005.

3.The Chairman
Chennai Port Trust
Rajaji Salai,
Chennai-600 001.

+ 1 cc to M/s.Samanta and Ston, Advocate, SR.22645
+ 1 cc to The Govt.Pleader, SR.23384

W.P.No.6904 of 2018

VGII(CO)
NR 11/04/2018