

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.9955 of 2018 and

W.M.P.Nos.11904 to 11905 of 2018

Salem District Tamil Nadu Water Supply and
Drainage Board Construction and Maintenance
Contractors Welfare Association
Regd.No.11/2018

rep by its Secretary D.Rangasamy,
Vandikkaranvalavu, Karukkalvadi,
Kongapadi, Salem - 636 502.

.... Petitioner

Vs.

The Superintending Engineer,
TWAD Board,
Salem-Namakkal Circle, Salem.

.... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorari calling for the records relating to the proceedings of the tender notifications viz., 1.IFB No.01/.F.OS-O&M./DOI/SNC/2018; 2.IFB No.02/.F.OS-O&M./DOI/SNC/2018; 3.IFB No.03/.F.OS-O&M./DOI/SNC/2018 and 4.IFB No.01/.F.OS-O&M./DOI/SNC/2018 dated 03.04.2018 on the file of the respondent and quash the same.

For Petitioner : Mr.S.Doraisamy

For Respondent : Ms.S.Thamizharasi,
Standing Counsel for TWAD Board

O R D E R

This Writ Petition has been filed seeking to quash the tender notifications dated 03.04.2018 on the file of the respondent.

2.The learned counsel appearing for the petitioner has submitted that the petitioner Association was formed for the welfare of the members of the Association and all the members of the petitioner Association are registered contractors under the respondent Department. Whiles, the respondent issued a tender notification dated 03.04.2018 viz., 1.IFB No.01/.F.OS-

O&M./DOI/SNC/2018; 2.IFB No.02/.F.OS-O&M./DOI/SNC/2018; 3.IFB No.03/.F.OS-O&M./DOI/SNC/2018 and 4.IFB No.01/.F.OS-O&M./DOI/SNC/2018 inviting tenders for works relating to outsourcing of operation and maintenance of water supply to various places in Salem District. The said tender notification requires the tenderers to submit their bid on or before 03.00 pm on 25.04.2018 in the office of the respondent and the bids will be opened on the same day (i.e.) on 25.04.2018 at about 03.30 pm.

3.The learned counsel appearing for the petitioner has submitted that though the notification was issued on 03.04.2018, the tender documents viz., the schedules were not uploaded in the website of the respondent viz., www.tenders.tn.gov.in and www.twadboard.gov.in. Contrary thereto, the tender documents were uploaded only on 17.04.2018. In view of the same, the documents sought to be enclosed with the bid viz., Income Tax Certificate, Sales Tax Certificate, Bank Guarantee Certificate, Auditor Report, Experience Certificate, Turn over statement, Attestation from Notary Public and ESI & EPF Certificates could not be made ready due to shortage of time.

4.The learned counsel appearing for the petitioner relies on Rule 20 of the Tamil Nadu Transparency in Tenders Rules, 2000 and has submitted that the Rule prescribes fifteen days for Tenders upto Rupees Two crores in value and thirty days for Tenders in excess of Rupees Two crores in value. In the present case, the notification was issued on 03.04.2018 and the value of the tender is more than Rupees Two crores in value and the respondent should have given thirty days time for producing the documents.

5. The learned counsel for the petitioner also submitted that Section 9(3) of the Rule also mandates the tender inviting authority shall also publish the notice inviting tenders in Indian Trade Journal and in daily newspapers having wide circulation depending upon the value of the procurement prescribed. Admittedly, the above said provision of Section 9 of the Rule has also not been complied with by publishing the notice in Indian Trade Journal. For these violations, the impugned tender notification is to be interfered with.

6.Ms.S.Thamizharasi, learned standing counsel taking notice for the respondent, on instruction, has submitted that Rule 20 of the Tamil Nadu Transparency in Tenders Rules, 2000, no doubt provides 15 days time for Tenders upto Rupees Two crores in value and thirty days for Tenders in excess of Rupees Two crores in value. In the present case, the tender notification shows the individual name of the work viz.,

1.IFB No.01/.F.OS-O&M./DOI/SNC/2018

- Value of tender - Rs.219.09 lakhs;

2.IFB No.02/.F.OS-O&M./DOI/SNC/2018

- Value of tender - Rs.239.73 lakhs;

3.IFB No.03/ .F.OS-O&M./DOI/SNC/2018

- Value of tender - Rs.256.58 lakhs; and

4.IFB No.01/.F.OS-O&M./DOI/SNC/2018

- Value of tender - Rs.259.51 lakhs;

But the learned counsel for the petitioner has misunderstood that the tender notification has been issued for tender carrying out works more than Rupees Two crores, which is not correct. In the Government Order in G.O.(Ms).No.243, dated 21.08.2017, which deals with the publication of notice inviting tender in newspapers, it is made clear that if the value of the procurement is above Rs.75 crores, then notice should be published in Indian Trade Journal.

7.Heard both sides.

8.The contention made by the learned counsel for the petitioner that as per Rule 20 (2), 30 days time should be given for the tenders in excess of Rs.2 crores in value, cannot be accepted for the reason that the tender notification dated 03.04.2018 does not stipulate the value of each work should be more than Rupees Two crores, whereas, in the present case, value of each work is less than Rupees one crore as mentioned above. As regards this contention, this Court is not inclined to interfere with the impugned notice.

9.However, even though the notification was issued on 03.04.2018, as rightly contended by the learned counsel for the petitioner, the tender documents viz., the schedules were uploaded in the websites of the respondent viz., www.tenders.tn.gov.in and www.twadboard.gov.in only on 17.04.2018. Therefore, in view of insufficient time available to the petitioner to enclose various documents viz., Income Tax Certificate, Sales Tax Certificate, Bank Guarantee Certificate, Auditor Report, Experience Certificate, Turn over statement, Attestation from Notary Public and ESI & EPF Certificates, this Court directs the respondent to extend the time for Sale of Bid till 25.04.2018 upto 01.00 pm instead of 23.04.2018.

10.The learned standing counsel appearing for the respondent has agreed to the said extension of time and has submitted that the date already fixed for bid submission need not be changed.

11.In view of the submission made by the learned standing counsel, this Court directs the respondent to postpone the date and time of sale of bid to 25.04.2018 upto 01.00 pm.

12.With the above directions, the Writ Petition is partly allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

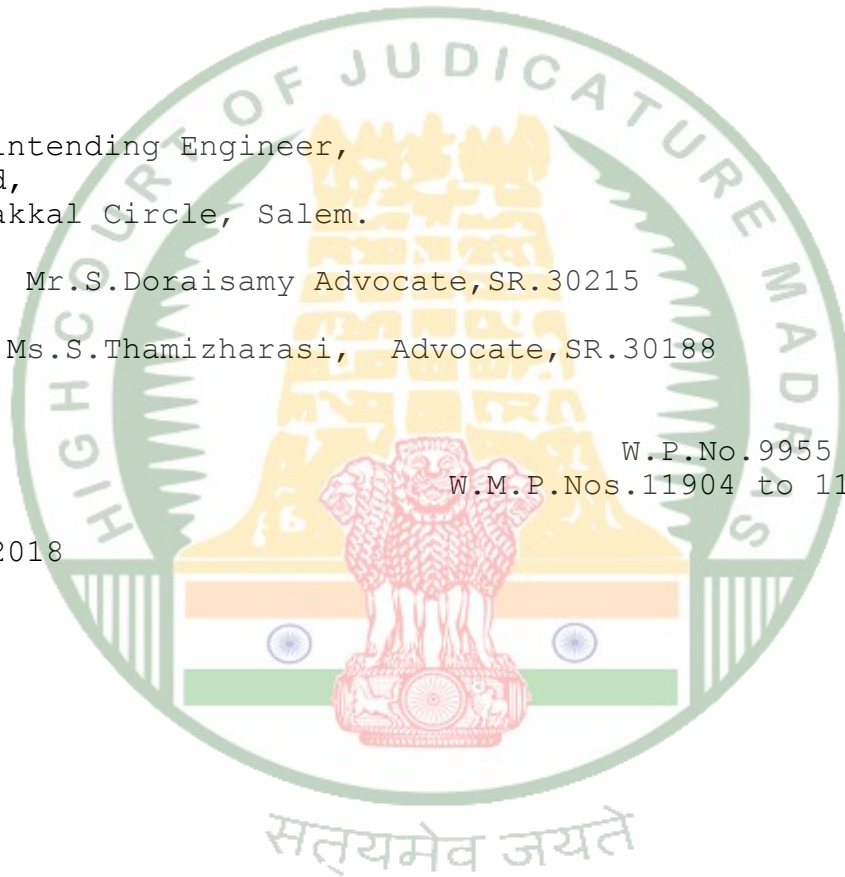
The Superintending Engineer,
TWAD Board,
Salem-Namakkal Circle, Salem.

+ 1 cc to Mr.S.Doraisamy Advocate,SR.30215

+ 1 cc to Ms.S.Thamizharasi, Advocate,SR.30188

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