

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.33210 of 2017
and WMP.No.36631 of 2017

M/s.Sri Ram Constructions,
Rep by its Partner
V.Shanthi

..Petitioner

Vs

1. The Assistant Director of Town Panchayats,
Dharmapuri Region,
Collector Office Backside,
Dharmapuri.
2. The Assistant Executive Engineer,
Town Panchayat Section,
Dharmapuri Region,
Collector Office Backside,
Dharmapuri.
3. The Executive Officer,
Kadathur Selection Grade Town Panchayat,
Kadathur,
Dharmapuri District.
4. Natarasan

..Respondents

[R4 impleaded as per the order of this Court,
dated 26.04.2018 in WMP.No.10739/2018 in W.P.No.33210/2017]

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to forebear the respondents from issuing work order in pursuant to the tender held dated 12.12.2017 for the work viz: (package No:- 1) in Kadathur Town Panchayat strengthening the BT Road at 11th ward Thindalanoor in Kadathur Town Panchayat without opening the tender of the petitioner in his presence.

For Petitioner : Mr.M.P.Rajavelayutham

For Respondents: Mr.V.Shanmuga Sundar
Special Government Pleader for R1 & R2

: Mr.M.Dig Vijaya Pandian
Additional Government Pleader for R3

ORDER

Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the respondents 1 and 2 and the learned Additional Government Pleader appearing for the 3rd respondent.

2. This writ petition has been filed for issuance of a writ of mandamus to forbear the respondents from issuing work order in pursuant to the tender notification, without opening the tender of the petitioner in their presence.

3. The case of the petitioner is that they are a Class-I Contractor in Tamil Nadu. Pursuant to the tender notice issued by the third respondent, they participated in the tender process. As per the notification, the technical bid has to be opened on 12.12.2017 at 3.30 pm, but it was not opened, as per the schedule. Hence they made a representation to the respondent on 12.12.2017 requesting them to inform the date and time of opening of the tender. Since there was no response, the present writ petition.

4. The learned counsel for the third respondent submitted that as per the notification, technical bid of the tenderers were opened on 12.12.2017 and the tender document of the petitioner was rejected and it was also informed to the petitioner on 14.12.2017. The petitioner has an appeal remedy under the Tamil Nadu Tender Transparency in Tenders Act, hence the present writ petition is not maintainable.

5. The learned counsel for the petitioner submitted that as per Section 8 of the Act, the technical bid has to be opened in the presence of the petitioner and under Section 11 of the Act, the petitioner has an opportunity to file an appeal within a period of 10 day from the date of rejection of the tender, but in the instant case, no rejection order has been received by the petitioner and it is now handed over to the counsel for the petitioner.

6. Taking note of the above facts and submissions of the learned counsels on either side, I do not find any merit in this writ petition. Accordingly, this writ petition is dismissed. However, the petitioner is given liberty to file an appeal

before the appellate authority on or before 09.07.2018 and in compliance of the conditions, the appeal shall be disposed of on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Assistant Director of Town Panchayats,
Dharmapuri Region,
Collector Office Backside,
Dharmapuri.
2. The Assistant Executive Engineer,
Town Panchayat Section,
Dharmapuri Region,
Collector Office Backside,
Dharmapuri.
3. The Executive Officer,
Kadathur Selection Grade Town Panchayat,
Kadathur,
Dharmapuri District.

+1cc to the Government Pleader, S.R.No.42296

+1cc to Mr.M.DIGVIJAYAPANDIAN, Advocate, S.R.No.41777

सत्यमेव जयते

W.P.No.33210 of 2017

NRJK (CO)

TR (03/07/2018)

WEB COPY