

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Delivered on
18.04.2018	05.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.480 of 2018
and
C.M.P.No.4450 of 2018

M/s.Savitha Devi
Rep. by Managing Director,
Transport Contractor,
No.29/19, Sannathi Street,
Thiruvannamalai,
Thiruvannamalai District.

... Appellant

Vs.

1.The Tamil Nadu State Civil Supplies Corporation,
No.12, Thambusamy Road, Kilpauk,
Chennai - 600 010.

2.The General Manager (marketing),
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road, Kilpauk,
Chennai - 600 010.

3.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Kancheepuram District,
Kancheepuram.

... Respondents

PRAYER: Appeal filed against the order passed by this Court dated 13.02.2018 passed in W.P.No.18215 of 2017.

PRAYER IN in W.P.No.18215 of 2017:

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents herein to forthwith award the Transportation Contract for Non-FCI category of foodgrains in Kancheepuram

District to the Petitioner pursuant to the Tender Notification Bearing MT9/016450/2017 dt.21.06.2017 of the 1st Respondent.

For Appellant : Mr.N.R.Chandran, Senior Counsel
for M/s.R.Kannan

For Respondents : Mr.S.T.S.Moorthy,
Additional Advocate General
Assisted by Mr.L.P.Shanmugasundaram

J U D G M E N T

R.SUBRAMANIAN, J.

1. The challenge in this Writ Appeal is to the order of the learned Single Judge dated 13.02.2018 made in W.M.P.No.19802 of 2017 in W.P.No.18215 of 2017 in and by which an interim order granting status quo pending disposal of the Writ Petition was vacated.

2. The prayer in the Writ Petition in W.P.No.18215 of 2017 is as follows:

"For the reasons stated in the accompanying affidavit, it is humbly prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriated Writ, Order or Direction in the nature of Writ of Mandamus directing the Respondents herein to forthwith award the Transportation Contract for Non-FCI category of foodgrains in Kancheepuram District to the Petitioner pursuant to the tender Notification bearing MT9/016450/2017 dated 21.06.2017 of the 1st Respondent and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice."

The said Writ Petition came to be filed in the following circumstances:

3. The petitioner was awarded the contract for transporting paddy from Porur railhead to the Modern Rice Mills of the respondent Corporation at Porur and Cheyyar for the period from 2015 to 2017. The contract for the period from 2015 to 2017 ended on 30.06.2017 and the same was extended for a period of one month from 01.07.2017 to 31.07.2017. While so, the 2nd respondent issued a show cause notice to the appellant/petitioner claiming certain deficiencies in the performance of the appellant on 08.07.2017, seeking suitable reply from the appellant. The appellant had sent a reply on 17.07.2017 seeking

extension of time upto 24.07.2017. It is also claimed that a reply was in fact sent on 25.10.2017, claiming that there is no basis for issuing a show cause notice itself.

4. While things stood thus, the respondents had floated a tender on 10.07.2017 for the period from 2017- 2018. It is the claim of the respondents that the pre-qualification bids were opened by the 1st respondent on 11.07.2017. On scrutiny it was found that the petitioner satisfies all the eligibility criteria in the pre-qualification bid stage. The price bid was opened by the 3rd respondent on 12.07.2017 and according to the petitioner, the petitioner was the successful bidder having quoted the lowest rate in the price bid also. Despite being the lowest tenderer, the petitioner was not awarded the contract. It is at this stage the petitioner had filed the above Writ Petition in W.P.No.18215 of 2017 seeking a mandamus as stated above. The said Writ Petition was entertained by this Court and an order of status quo was granted by virtue of which the petitioner continued to transport paddy from the Porur railhead to the Modern Rice Mills at Porur and Cheyyar.

5. During the pendency of above Writ Petition in W.P.No.18215 of 2017, the 3rd respondent passed an order on 06.12.2017, in and by which, the 3rd respondent had black listed the petitioner. The said order black listing the petitioner dated 06.12.2017 was challenged by the petitioner in W.P.No.32435 of 2017. The said Writ Petition also came to be dismissed on 13.02.2018 on the sole ground that the petitioner had an alternative remedy by way of appeal to the Managing Director of the 1st respondent Corporation. The interim order of status quo granted in W.M.P.No.19802 of 2017 in W.P.No.18215 of 2017 was vacated by the learned Single Judge solely on the ground that the petitioner has been black listed subsequently by an order dated 06.12.2017 which is to take effect from 26.12.2017.

6. In view of the said black listing, the learned Single Judge found that the petitioner cannot take advantage of the status quo order and continue its operations. The learned Single Judge also took note of the submissions made by the learned Additional Advocate General that the Corporation will make its own arrangements to transport the commodities during the pendency of the Writ Petition. It is this order vacating the order of status quo that is the subject matter of challenge in the above appeal.

7. It is not in dispute that the tender called for on 10.07.2017 for transport of commodities is only for a period of one year that is from 01.08.2017 to 30.06.2018. the re-tender notification issued on 19.07.2017 also specifies the period as

from 01.08.2017 to 30.06.2018. It is conceded at the bar by the learned Senior Counsel appearing for the appellant/ petitioner that the period that remains is inconsequential. Therefore, the above appeal is not very seriously pressed by the appellant. We also find that the Major portion of the tender period is itself had expired and no useful purpose will be served by going into the merits of this appeal.

8. Therefore, we do not find any merit in this appeal and the appeal is accordingly dismissed without going into the correctness of the basis on which the interim order of status quo was vacated by the learned Single Judge. However, in the circumstances there will no orders as to costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

dsa

To

- 1.The Tamil Nadu State Civil Supplies Corporation,
No.12, Thambusamy Road, Kilpauk,
Chennai - 600 010.
- 2.The General Manager (marketing),
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road, Kilpauk,
Chennai - 600 010.
- 3.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Kancheepuram District,
Kancheepuram.

+1cc to Mr.R.KANNAN, Advocate, S.R.No. 34633

WEB COPY

Judgment in
W.A.Nos.480 of 2018

MG(CO)
TR(08/06/2018)