

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17..09..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.22573 of 2018
and
W.M.P.No.26429 of 2018

V.Navaneetha Krishnan

... Petitioner

-Versus-

- 1.The Special Officer / Assistant Director,
Town Panchayats,
Salem District,
Salem.
- 2.The Executive Officer,
Nagavalli Town Panchayat,
Nagavalli,
Salem District.
- 3.T.Palanisamy,
Contractor,
Residing at Backside of Deepam
Kalyana Mandapam,
Mecheri-636453.
Mettur Taluk,
Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration declaring the entire tender process and award of contract to the 3rd respondent in pursuant to the tender notification dated 01.08.2018 in respect of improvement of Black Top Road under "TURIP - 2018-19" viz. Package No. 1 - Strengthening of the BT Road at Ward No. 5 Karattupatti Main Road to Ellakuttaiyur Main Road in Nagavalli Town Panchayat and Package NO. II - Strengthening of the BT Road at Ward No. 7 Nangavalli Vanavasi Main Road to Therkatthiyanur Road in Nangavalli Town Panchayat Salem District as illegal arbitrary and against the provisions of Tamil Nadu Transparency in Tenders Act 1998 and its Rules 2000 and for a consequential order directing the respondents 1 and 2 to evaluate the tender afresh after giving reasonable opportunities to the petitioner for the said works.

For Petitioner : Mr.M.R.Jotimanian
For Respondents : Mrs.S.Ramya Revathy,
Government Advocate for R1
Mr.T.Murugamanickam,
Senior Counsel for
Mrs.K.Kala for R3
No appearance for R2

ORDER

This writ petition has been filed challenging the Tender awarded in favour of the 3rd respondent.

2. The grievance of the petitioner is that even though the petitioner had produced all necessary documents for the consideration of tender, the 2nd respondent has mechanically rejected the tender of the petitioner. According to the learned counsel, some of the relevant papers submitted by the petitioner along with the Tender were purposely removed by the 2nd respondent to favour others.

3. Since no notice was ordered to the 2nd respondent, he is not before this court. However, the learned counsel appearing for the other respondents submitted that there is no averment in the affidavit filed in support of the writ petition regarding the above allegation. Without any such averments in the writ petition and substantive materials to establish the same, such allegations cannot be considered.

4. It is not in dispute that the tender of petitioner was rejected and the tender has been awarded in favour of the 3rd respondent. The legal position is very clear that as against the order rejecting the tender, there is an alternative remedy available to petitioner under Section 11 of The Tamil Nadu Transparency in Tenders Act, 1998 and without availing such alternative remedy, the petitioner cannot maintain the instant writ petition. In such view of the legal position, without going into the merits and demerits of the case, this court gives liberty to the petitioner to challenge the order passed by the 2nd respondent awarding the tender in favour of the 3rd respondent in the manner known to law.

5. At this juncture, the learned counsel for the petitioner submitted that the petitioner was not served with a copy of the order passed by the 2nd respondent rejecting his tender. Therefore, the 2nd respondent is directed to furnish a copy of

the order rejecting the tender of the petitioner, if the same has not been officially furnished till date, so as to enable the petitioner to prefer an appeal before the appropriate forum.

6. In the result, the writ petition is disposed of with the above directions. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Special Officer / Assistant Director,
Town Panchayats,
Salem District, Salem.

2.The Executive Officer,
Nagavalli Town Panchayat, Nagavalli,
Salem District.

+1cc to Mr.M.R.Jothimanian, Advocate Sr.64639

+1cc to the Government Pleader Sr.64636

+1cc to M/S.Kala.K, Advocate Sr.64377

W.P.No.22573 of 2018

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srg 23/10/2018

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