

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.24120 of 2018
and W.M.P.No.28114 of 2018

M/s.A.K.S. Transport
rep. by its Proprietor-D.Vadivel,
S/o.M.Dhamodaran,
7-P.A., Shopping Complex,
25-B, Suramangalam Main Road,
Shevapet, Salem-636 002. .. Petitioner

Vs.

1. The General Manager (Tamil Nadu),
Food Corporation of India,
Regional Office,
No.8, Mayor Sathyamoorthy Road,
Chetpet, Chennai-600 031.

2. V.K. Enterprises
rep. by its Managing Partner
SOO.Vijaikumar,
No.7, Town Station Road,
Mayiladuturai-609 001
Nagapattinam District. .. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus forbearing the first respondent from awarding the handling and transport contract for movement of food grains and allied materials, etc. from Salem junction godshed to FSD Salem and vice versa for a period of two years to the second respondent and consequentially directing the first respondent to appoint the petitioner as the H & T Contractor as he is the next eligible lowest bidder in the e-Tender in S&C 13/5/16/2018/FSD SALEM/CONT dated 19.07.2018.

For Petitioner : Mr.A.Iruthayaraj

For Respondents : Mr.S.R.Sumathy for R1

Ms.D.Veda for R2

O R D E R

The prayer of the petitioner is to forbear the first respondent from awarding the handling and transport contract to the second respondent and consequentially to direct the first respondent to appoint the petitioner as the H & T Contractor.

2. Heard Mr.A.Iruthayaraj, learned counsel appearing on behalf of the petitioner, Ms.S.R.Sumathy, learned Standing Counsel appearing on behalf of the first respondent and Ms.D.Veda, learned counsel for the second respondent.

3. The first respondent floated an e-tender for Handling and Transport Contract for movement of food grains and allied materials, etc. from Salem junction godshed to FSD Salem and vice versa for the period from 2018 to 2020, on 19.07.2018. The petitioner, the second respondent and two others were submitted their bids within the stipulated time. The technical bids were opened on 09.08.2018, in which, only three bidders were qualified, as one of the bidders does not have required experience.

4. The petitioner sent a representation dated 31.08.2018 to the first respondent seeking to reject the bid of the second respondent making certain allegations. But there was no response from them. Consequently, the price bid was opened on 05.09.2018 and the second respondent was declared as the lowest bidder followed by the petitioner as the second lowest bidder. Hence, fearing that the first respondent may award the tender in favour of the second respondent, the petitioner is before this Court.

5. Refuting the allegations of the petitioner, separate counter affidavits have been filed by the respondents seeking dismissal of the writ petition.

6. Learned counsel for the petitioner submitted that the second respondent did not fulfill the mandatory conditions for the contract and submitted forged EPF documents and also suppressed the fact that they were blacklisted by the TNCSC and hence, their price bid ought not to have been opened, in which event, the petitioner would have been the lowest bidder to be awarded with the contract.

7. However, refuting all those allegations, learned counsel for the first respondent submitted that only after satisfying that the second respondent fulfilled all the conditions, the price bid was opened and also after obtaining letter from the Employees Provident Fund Organization (EPFO) about the correctness of the EPF code provided by the second respondent

and verifying the fact that the second respondent was not blacklisted by the TNCSC, the acceptance letter dated 05.10.2018 and award letter dated 11.10.2018 were issued in favour of the second respondent.

8. Learned counsel for the second respondent submitted that they, being the lowest bidder, have been awarded with the contract and have also been performing the contract.

9. Admittedly, the second respondent, who was the lowest bidder, was awarded the contract and commenced the work. A perusal of the materials placed before this Court amply shows that the eligibility of the second respondent has been ascertained and after arriving at the satisfaction only the tender was awarded in their favour by the petitioner. It is to be noted that the petitioner was the contractor for the period of four years from 16.10.2014 to 15.10.2016 and 16.10.2016 to 15.10.2018 under the first respondent, and but for their dereliction, demurrage charges of Rs.10,80,153/- would have been saved and there were also huge detention wagons charges at the hands of the Indian Railways.

10. Considering the facts and circumstances of the case and the above submissions of the learned counsels on either side, this Court is of the view that the prayer sought for in this writ petition is misconceived and this writ petition fails. Accordingly, this writ petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

The General Manager (Tamil Nadu),
Food Corporation of India,
Regional Office,
No.8, Mayor Sathyamoorthy Road,
Chetpet, Chennai-600 031.

+2cc to Mrs.S.R.Sumathy, Advocate SR.No.81845

W.P.No.24120 of 2018

GP (CO)
GMY (22/01/2019)