

qIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25-06-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.15443 of 2018

North Chennai Thermal Power Station,
Contractors Welfare Association,
Represented by its General Secretary,
Mr.M.Suresh Kumar,
S/o.P.Muthusami, Having Registered
Office at NCTPS Campus,
Chennai-600 120.

Petitioner

Versus

1.The Chairman,
TANGEDCO,
No.144, Anna Salai,
Chennai-600 002.

2.The Member of Generation,
TANGEDCO,
No.144, Anna Salai,
Chennai-600 002.

3.The Chief Engineer,
NCTPS-I,
Chennai-600 120.

4.The Superintending Engineer,
Mechanical - I,
NCTPS-I,
Chennai-600 120.

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the second respondent herein to consider and pass orders on the petitioner's representation dated 21.5.2018 submitted for cancelling the relaxation in the requirement of experience with 210 MW Power Station, add the above requirement of experience with 210 MW Power Station as one of the pre-condition in participating E-Tenders, cancel the abovesaid five

E-Tenders since the same were not containing the above requirement condition and call for fresh E-Tenders for the abovesaid five E-Tenders in the NCTPS-I, Chennai-120.

For Petitioner : Mr.S.Sasikumar

For Respondents : Mr.P.R.Dhilipkumar

ORDER

The relief sought for in this writ petition is for a direction to direct the second respondent to consider and pass orders on the petitioner's representation dated 21.5.2018 submitted for cancelling the relaxation in the requirement of experience with 210 MW Power Station, add the above requirement of experience with 210 MW Power Station as one of the pre-condition in participating E-Tenders, cancel the abovesaid five E-Tenders since the same were not containing the above requirement condition and call for fresh E-Tenders for the abovesaid five E-Tenders in the NCTPS-I, Chennai-120.

2. The grievance of the writ petitioner is that certain conditions imposed in the E-Tender Notification are not matching with the requirements. In other words, the learned counsel, appearing on behalf of the writ petitioner, states that such conditions are arbitrary and the respondents have unnecessarily included such conditions, so as to see that the members of the petitioner-Association are not able to participate in the E-Tender process.

3. The learned counsel, appearing on behalf of the respondents, states that the Notification had been issued already and the members of the petitioner-Association had participated in the E-Tender process and only after participating, they have filed the present writ petition, challenging the conditions stipulated in the E-Tender Notification.

4. The learned counsel for the respondents further states that on account of the condition, which is now questioned by the writ petitioner-Association, the Board is able to get tender with less price and it is certainly beneficial to the Board itself. They could able to execute certain important works with less price on account the conditions imposed in the E-Tender Notification. Contrarily, the members of the petitioner-Association quoted higher rate are agitating to implement the old terms and conditions, which is no more in practice. In other words, the petitioner-Association have filed the present writ petition, to seek their own requirements and the same cannot be considered in this writ petition.

5. This Court is of an opinion that the terms and conditions in respect of the Tender Notification is a policy decision to be taken by the Board with the consultation of the Experts Committee. Such terms and conditions, in normal circumstances, forms a policy of the Board and the same cannot be questioned by way of a writ petition. If at all, any terms and conditions imposed is unconstitutional or in violation of the constitutional provisions, then alone the writ can be entertained.

6. In respect of certain technical specifications for the benefit of Board, if incorporated, the same cannot be questioned by the participants of the E-Tender process. If at all, the eligible Contractors submit their application, the Board has to consider and conduct the E-Tender process in a transparent manner under the provisions of the Tender Act.

7. This being the factum of the case, the writ petitioner-Association cannot question the terms and conditions of the Tender after submitting their applications and after participating in the E-Tender process. In this view of the matter, the writ petitioner-Association has not established even a semblance of legal right, so as to consider the grounds raised in this writ petition.

8. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Chairman,
TANGEDCO,
No.144, Anna Salai,
Chennai-600 002.

2.The Member of Generation,
TANGEDCO,
No.144, Anna Salai,
Chennai-600 002.

3.The Chief Engineer,
NCTPS-I,
Chennai-600 120.

4.The Superintending Engineer,
Mechanical - I,
NCTPS-I,
Chennai-600 120.

+lcc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No.40016

+lcc to Mr.R.SasiKumar, Advocate, S.R.No.40311

W.P.No.15443 of 2018

GSP (29/06/2018)



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