

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.16879 of 2018

K.Ashok Kumar

.. Petitioner

-vs-

1. The Managing Director
Tamil Nadu Warehousing Corporation
No.82, Anna Salai
Guindy, Chennai 600 032
2. The Regional Manager
Central Warehousing Corporation
Saidapet, Chennai 600 015
3. The General Manager
Regional Office
Chetput, Chennai 600 031 .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Declaration, declaring that the conditions laid down in the tender duly called for by the Managing Director, Tamil Nadu Warehousing Corporation, No.82, Anna Salai, Guindy, Chennai 600 032, the first respondent herein for the appointment of handling and transport contractors for 41 warehouses attached to Tamil Nadu Warehousing Corporation for the period between 2018 and 2020, namely,

1. eligibility criteria at Part-II, Serial No.19, Page No.21 namely:

Sl.No.	Warehouse Grade	Minimum Trucks Owned for Bidding		
		1 or 2 Warehouses	3 or 4 Warehouses	5 Warehouses and above
1	A	10	15	20
2	B	5	8	13
3	C	2	2	4

2. and eligibility criteria Serial No.3, Page No.15 namely:

Tenderer must have the experience of H&T operations for a minimum period of three years, in FCI, CWC or any department of Central or State Government or any Public Sector Undertakings especially in the field of Ferlizer, Food grains, Cement, Sugar, Coarse grains or any other goods

are against law, inoperative, unsustainable and ultra vires of the Constitution of India and as such they are liable to be set aside.

For Petitioner :: Mr.D.Ashok Kumar

For Respondents :: Mr.Arun Anbumani for R1 & 2

ORDER

This writ petition has been filed challenging two of the eligibility criteria conditions to be satisfied by the bidders, as prayed for in the writ petition, pursuant to the impugned tender notification issued by the first respondent.

2. Learned counsel for the petitioner submitted that when the first respondent invited E-Tender under two bid system from the professionally competent financially sound contractors who are interested for the contract of handling and transportation of foodgrains, other notified commodities etc., and allied services at the Warehouses stated thereunder, the respondents, among other conditions, have unreasonably fixed the eligibility criteria that a contractor/bidder must own road worthy lorries/trucks, namely, 10 for 1 or 2 warehouses, 15 for 3 or 4 warehouses, 20 for 5 warehouses and above, concerning Warehouse Grade-A; 5 for 1 or 2 warehouses, 8 for 3 or 4 warehouses, 13 for 5 warehouses and above, concerning Warehouse Grade-B; 2 for 1 or 2 warehouses, 2 for 3 or 4 warehouses, 4 for 5 warehouses and above, concerning Warehouse Grade-C as well as the experience criteria for a period of three years, in an effort to award the contract only to selected people.

3. It is at this stage the learned counsel for the respondents 1 & 2, apprising this Court about the factual misrepresentation, submitted as per the original eligibility criteria, the tenderer must have minimum road worthy lorries/trucks, namely, 15 owned lorries/trucks and 25 tie up lorries/trucks concerning Warehouse Grade-A, 10 owned lorries/trucks and 20 tie up lorries/trucks concerning Warehouse Grade-B, 5 owned lorries/trucks and 10 tie up lorries/trucks concerning Warehouse Grade-C and 5 owned lorries/trucks and 5 tie up lorries/trucks concerning Warehouse Grade-D. Only taking

into account the grievance expressed by the bidders, the respondents have issued a corrigendum relaxing the eligibility criteria to a reasonable extent, namely, 10 for 1 or 2 warehouses, 15 for 3 or 4 warehouses, 20 for 5 warehouses and above, concerning Warehouse Grade-A; 5 for 1 or 2 warehouses, 8 for 3 or 4 warehouses, 13 for 5 warehouses and above, concerning Warehouse Grade-B; 2 for 1 or 2 warehouses, 2 for 3 or 4 warehouses, 4 for 5 warehouses and above, concerning Warehouse Grade-C as well as the experience criteria for a period of three years. Therefore, the argument advanced by the learned counsel for the petitioner that the respondents have wrongly fixed the eligibility criteria for handling the cargo as well as the minimum number of years of experience, is wholly misconceived.

4. When the respondents 1 & 2 have relaxed the eligibility criteria to a reasonable extent by issuing a corrigendum with regard to the road worthy lorries/trucks to be owned by the bidders together with the minimum experience of three years, this Court finds no illegality or arbitrariness in the said fixation, as the E-Tender under two bid system has been issued inviting bids from the professionally competent/financially sound contractors for the contract of handling and transportation of foodgrains, other notified commodities etc., and allied services at the Warehouses stated thereunder. Secondly, the process of opening of the technical bids for certain items has been over. Therefore, this Court is not inclined to entertain the writ petition at this stage. Accordingly, the writ petition stands dismissed. Consequently, W.M.P.No.20069 of 2018 is also dismissed. No costs.

Sd/-
Assistant Registrar (CS IX)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

ss

To

1. The Managing Director
Tamil Nadu Warehousing Corporation
No.82, Anna Salai
Guindy
Chennai 600 032

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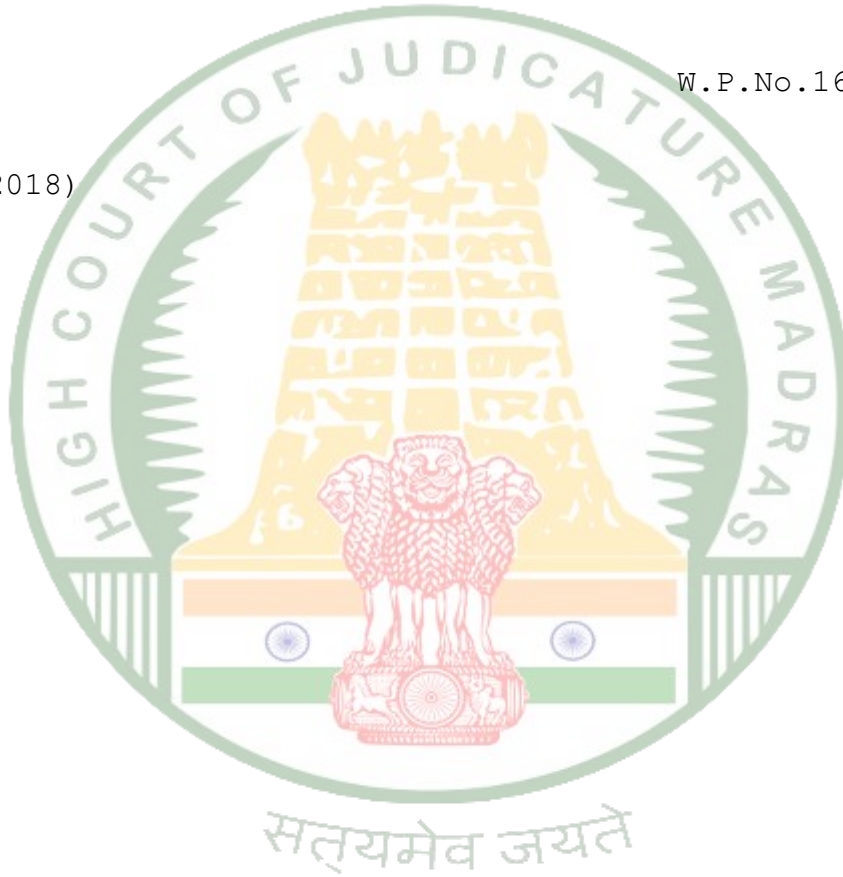
2. The Regional Manager
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Chennai 600 015

3. The General Manager
Regional Office
Chetput, Chennai 600 031

+lcc to Mr.Arun Anbumani, Advocate SR.No.47328

W.P.No.16879 of 2018

SAI (CO)
GN(27/07/2018)



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