



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 27.08.2018
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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A.(MD)No.24 of 2018
and
C.M.P(MD)Nos.156 and 157 of 2018

Tmt.S.Poovammal

.. Appellant /Writ Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12 Thambbu Samy Road,
Kilpauk, Chennai - 10.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
No.9-F, St. Thomas Road,
Maharaja Nagar, Tirunelveli.

3.M/s.L.Helan

.. Respondents/Respondents

Prayer : Writ Appeal filed under Section 15 of Letters Patent, to set aside the order passed in W.P(MD)No.13597 of 2017 dated 25.10.2017 on the file of this Court.

Prayer in WP(MD)No. 13597/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned order passed by the 2nd respondent vide his proceedings Ref.No.R.C.No.B2/3586/2017 dated 18.07.2017, quash the same and consequently direct the respondent 1 and 2 to open the price bid submitted by the petitioner in respect of Tirunelveli region and thereafter finalize the lowest tenderer and award transport contract for the period of 01.08.2017 to 30.06.2018.

For Appellant

: Mr.Niranjana S.Kumar

For R-1 & R-2

: Mr.B.Pugalendhi,
Additional Advocate General

: Mr.P.Saravanan

**JUDGMENT**

**[Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.]**

The writ petition in W.P(MD)No.13597 of 2017 has been filed by the appellant / writ petitioner, challenging the order passed by the second respondent, disqualifying her from participating in the tender for the year 2017-2018 issued by the Tamil Nadu Civil Supplies Corporation.

2. It is seen that as per the tender conditions, the Contractor / Tenderer has to submit Turn Over Certificate for Two Crores for the three preceding assessment years. Simultaneously, the Contractor / tenderer must also submit three preceding years Experience Certificate in transportation of food grains such as Rice, Sugar, Wheat, Paddy, Dhall etc. Since the appellant / writ petitioner did not submit the three preceding years Experience Certificate, she was disqualified from taking part in the tender. Challenging the same, the appellant / writ petitioner had filed the said writ petition.

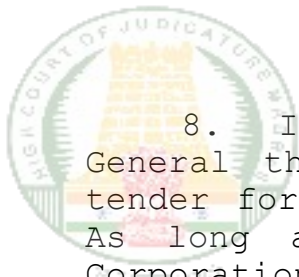
3. The learned single Judge heard the matter and dismissed the writ petition holding that unless the conditions in the tender notification are arbitrary, discriminatory, mala fide or actuated by bias, the eligibility criteria cannot be questioned in the writ petition. Aggrieved by the same, the above writ appeal is filed.

4. The learned Additional Advocate General appearing for the respondents 1 and 2, submitted that the period for which the tender was issued is now over.

5. Be that as it may, it is pointed out by the learned counsel appearing for the appellant that for the subsequent year viz., 2018-2019, tender notification is now issued. In the said tender notification, again, for the three preceding assessment years as well as three financial years, Experience Certificate in Transportation of food grains was directed to be submitted.

6. The contention of the learned counsel for the appellant is that in view of the rejection of tender application of the appellant, for the previous year, she could not participate and get Experience Certificate. In that event, the tenderer / appellant fails to produce the preceding one year Experience Certificate, it would disqualify her from applying for tender not only for the succeeding three years, but also, for ever.

7. For this, the learned Additional Advocate General replies that it is not only the Civil Supplies Corporation, but the Experience Certificate can be obtained from the other Corporations viz., Warehousing Corporation or Food Corporation of India etc.



8. It is also made clear by the learned Additional Advocate General that it is open to the appellant to participate in the tender for the year 2018-2019 by producing the required documents. As long as the Contractor is not blacklisted by any of the Corporations, it is open to the Contractor to take part in the tender.

9. It is stated by the learned counsel for the appellant that presently, the appellant is the Contractor for Central Warehousing Corporation.

10. In view of the same, the embargo pointed out by the learned counsel for the appellant that the appellant may not have experience for the year 2017-2018, is automatically removed. If the appellant produces all the required documents as mentioned in the tender notification, including the average Turn Over Certificate for the three preceding years and also the Experience Certificate for the three preceding years in transportation of food grains, it is for the respondents / Corporation to accept the application of the appellant and consider the same on merits.

11. The apprehension of the appellant is therefore unwarranted as the learned Additional Advocate General had fairly submitted that in the event of all the documents produced by the appellant are in order, the Respondents / Corporation would consider the same on merits.

12. In view of the above, the Writ Appeal is disposed of and it is open to the appellant to take part in the tender issued by the respondents / Corporation, for the year 2018-2019. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

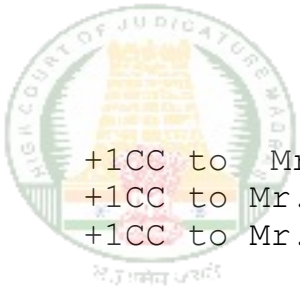
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Sub Assistant Registrar(CS-IV)

To:

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12 Thambbu Samy Road,
Kilpauk,
Chennai - 10.

2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
No. 91, St. Thomas Road,
Maharaja Nagar, Tirunelveli.



+1CC to Mr.B.Pugalendhi, Advocate, SR.No. 80300
+1CC to Mr.Niranjana S.Kumar, Advocate, SR.No. 80301
+1CC to Mr.R.Anand, Advocate, SR.No. 80491

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