



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

WEB COPY

W.P. (MD).Nos.1768 & 4821 of 2018

and

W.M.P. (MD).Nos.1889 & 1890, 4831 & 4832 of 2018

V.Kathiresan ...Petitioner in W.P. (MD).No.1768 of 2018
R.Tamil Selvan ...Petitioner in W.P. (MD).No.4821 of 2018

Vs.

- 1.The Secretary to Government,
Highways & Major Ports Department,
Government of Tamil Nadu,
Fort St.George, Chennai.600 009.
- 2.The Chief Engineer,
National Highways, Guindy, Chennai-600 032.
- 3.The Superintending Engineer,
National Highways Circle,
No.5, Besant Road, Chinna Chokkikulam
Madurai-625 002.
- 4.Mr.Jawahar Muthuraj,
Now working as Superintending Engineer,
National Highways Circle,
No.5, Besant Road, Chinna Chokkikulam,
Madurai-625 002. ...Respondents in W.P. (MD).No.1768 of 2018
- 1.The Chief Engineer,
National Highways, Guindy,
Chennai-600 322.
- 2.The Superintending Engineer,
National Highways Circle,
No.5, Besant Road,
Chinna Chokkikulam, Madurai-625 002.
...Respondents in W.P. (MD).No.4821 of 2018

PRAYER in W.P. (MD).No.1768 of 2018: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the third respondent dated 12.01.2018, impugned tender notice No.40/2017/DO dated 19.01.2018 of third respondent, impugned tender notification No.40/2017/Va.Tho.A dated 19.01.2018 published in Dinathanthi Tamil Daily dated 20.01.2018, quash the same and consequently direct the respondents herein to open the price bid of the petitioner furnished as per earlier tender



notification dated 20.11.2017 and award the subject matter of tender notification in favour of petitioner in accordance with law.

PRAYER in W.P. (MD).No.4821 of 2018: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the second respondent dated 28.02.2018 rejecting the two tender documents and quash the same and consequently direct the second respondent to accept and process the technical and price bid of the petitioner submitted in response to tender notice No.40 of 2017 dated 19.01.2018.

In W.P. (MD).No.1768 of 2018

For Petitioner : Mr.Veerakathiravan
Senior counsel for
M/s.Veera Associates
For R1 to R3 : Mrs.S.Srimathy
Special Government Pleader
For R4 : Mr.V.Perumal

In W.P. (MD).No.4821 of 2018

For Petitioner : Mr.Mohan
Senior counsel
for Mr.R.Murali
Senior Counsel
For Respondents : Mrs.S.Srimathy
Special Government Pleader

COMMON ORDER

Heard the learned counsel on either side.

2.By consent of both the parties, both the Writ Petitions themselves are taken up for final disposal.

3.Both the Writ Petitions are taken up together and a consent order is passed. The writ petitioner in W.P.(MD).No.1768 of 2018 is a participant in respect of two packages, namely, 1 and 2. Tender notification was issued on 19.01.2018 by the third respondent in W.P.(MD).No.1768 of 2018. The tenders were opened on 28.02.2018. The writ petitioner in W.P.(MD).No.1768 of 2018, namely, Kathiresan was successful in respect of package No.1.1. But he was not successful in respect of package No.1.2.

4.The writ petitioner in W.P.(MD).No.4821 of 2018, namely, R.Tamil Selvan, took part in the tender process in the previous stage. On account of his conduct, the tender process got frustrated. Therefore, this Court directed the respondents not to permit the petitioner in W.P.(MD).No.4829 of 2018 to take part in the fresh tender process. Therefore, the petitioner in W.P.(MD).No.4829 of 2018 could not take part in the tender process. Therefore, this Writ Petition came to be filed.



5. When the matter was taken up for disposal, the learned counsel appearing for the petitioners on instructions submitted that he would not question his disqualification in respect of package No.1.2. However, he wanted this Court to permit the authorities to hold a fresh negotiation involving him and Thiru V.Kathiresan alone. It is seen that the petitioner in W.P.(MD).No.4821 of 2018 has quoted a far more competitive rate compared to V.Kathiresan.

6. This Court taking note of the facts and circumstances of the cases, directs the third respondent/Superintending Engineer, National Highways Circle, Chinna Chokkikulam, Madurai to hold a (oral) bidding process involving Thiru V.Kathiresan and Thiru.R.Tamil Selvan alone. The (oral) bidding involving these two petitioners shall be conducted in the office of the third respondent on 23.03.2018 at 11.00 a.m. The entire proceedings shall be duly videographed. The third respondent can finalise the entire process and issue appropriate proceedings.

7. The learned Special Government Pleader appearing for the respondents 1 to 3 is directed to appraise this Court the outcome and compliance of this order on 26.03.2018 at 10.30 A.M.

8. These Writ Petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

1. The Chief Engineer,
National Highways, Guindy, Chennai-600 322.
 2. The Superintending Engineer,
National Highways Circle, No.5, Besant Road,
Chinna Chokkikulam, Madurai-625 002.
 3. The Secretary to Government,
Highways & Major Ports Department,
Government of Tamil Nadu, Fort St. George, Chennai.600 009.
 4. The Chief Engineer,
National Highways, Guindy, Chennai-600 032.
- +1CC TO M/S.M.SURESH KUMAR, ADVOCATE, SR NO.56644
+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.57253
+1CC TO M/S.VEER ASSOCIATES, ADVOCATE, SR NO.4395
+1CC TO M/S.V.PERUMAL, ADVOCATE, SR NO.4550

ORDER MADE IN
W.P.(MD).Nos.1768 and 4821 of 2018
20.03.2018