



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.(MD)No.3519 of 2018

and

W.M.P.(MD)Nos.3649 to 3651 of 2018

P.Nallusamy

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Assistant Director (Panchayat),
Rural Welfare Department,
Madurai District.

3.The Block Development Officer / Special Officer,
(Village Panchayat),
Melur Union, Madurai District.

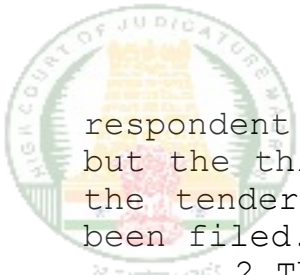
... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the third respondent made in his proceedings in Na.Ka.No.1324/2017/Theel dated 13.02.2018 and to quash the same and consequently direct the third respondent to issue work order for the allotted works to him in "Drain setting in Thaniyamangalam Panchayat from Kattakalan Kanmai Odai to MGR Nagar" in S.No.1 within a stipulated time.

For Petitioner : Mr.M.Jegadeesh Pandian
For R1 and R2 : Mrs.J.Padmavathi Devi,
Special Government Pleader.
For R3 : Mr.A.Thiagarajan,
Standing Counsel.

ORDER

According to the petitioner, the third respondent called for tender for setting up "Drain setting in Thaniyamangalam Panchayat from Kattakalam Kanmai Odai to MGR Nagar" and the petitioner was the successful bidder. Thereafter, after opening the tender, the third respondent directed the petitioner to deposit a additional security of Rs.98,000/- on the ground that his tender is less than the upset price. According to the petitioner, even though the order passed on 01.02.2018, the order was communicated to him only on 02.02.2018. Immediately on the next day, the petitioner approached the third



respondent to pay the additional security deposit of Rs.98,000/-, but the third respondent without accepting the same, now, cancelled the tender. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing for the respondents submitted that even though the order passed on 01.02.2018, the petitioner did not come forward to pay the amount. In the above circumstances, the tender has been cancelled and the third respondent called for re-tender. Apart from that the learned counsel appearing for the respondents submitted that since the petitioner quoted 14% less than the upset price, the third respondent also suspecting the quality of work to be done by the petitioner.

3. I have heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2, and the learned Standing Counsel appearing for the third respondent.

4. After accepting the tender, the third respondent directed the petitioner to deposit the additional security of Rs.98,000/-, according to the petitioner, even though the order was passed on 01.02.2018, the order was communicated to him only on 02.02.2018, on the very next day, he approached the third respondent to pay the additional security deposit but the third respondent without considering the same, cancelled the tender.

5. Considering the fact that now, the third respondent has accepted the tender submitted by the petitioner, and asked him to deposit the additional security, and the petitioner is also ready and willing to pay the additional security deposit, in the above circumstances, the third respondent ought not have cancelled the tender itself. Apart from that after accepting the tender and directing him to pay the additional security deposit, the third respondent cannot now suspect the quality of work, and if the quality of work is not satisfactory, it is always open to the authorities to take suitable action in future, and in anticipation the tender cannot be cancelled at this stage. In the above circumstances, the impugned order passed by the third respondent is set aside. The petitioner is directed to approach the third respondent on or before 10.03.2018, and pay additional security deposit as demanded by the third respondent and on paying such deposit, the third respondent is directed to confirm the tender in favour of the petitioner.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl side)

/True copy/

Sub Assistant Registrar



To

1.The District Collector,
Madurai District,
Madurai.

2.The Assistant Director (Panchayat),
Rural Welfare Department,
Madurai District.

3.The Block Development Officer/Special Officer,
(Village Panchayat), Melur Union, Madurai District.

+1cc to M/S.Special Government Pleader,SR. 52961

+1cc to Mr.M.JEGADEESH PANDIYAN,Advocate,SR. 53240

W.P (MD) No.3519 of 2018
02.03.2018

MYR

KK/SKN RSK/SAR 3/07.03.2018/ 3P- 6C/