



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2018

CORAM:

WEB COPY

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

W.A(MD)No.635 of 2018
against
W.P(MD)No.22888 of 2017
and
C.M.P(MD)No.3528 of 2018

A.Kennedy

... Appellant/Petitioner

Vs.

The Chief Engineer (PWD),
Technical Education Circle,
Chennai - 600 025.

... Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 25.01.2018 made in W.P(MD)No.22888 of 2017, on the file of this Court.

Prayer in WP(MD) . 22888/ 2017 :

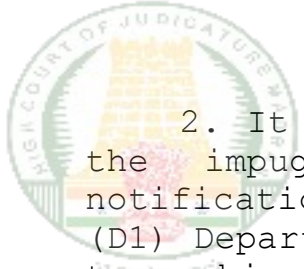
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records pertaining to the Impugned Tender Notice No.DB/37 CE/TEC/17-18/DO.4 dated 02.11.2017 issued by the respondent and quash the same so far as Clause 1(b) of the Minimum Criteria for Pre Qualification prescribed in Cover I of the Tender Schedule for construction of 15 classrooms and 5 Laboratories building in Sri Meenakshi Government Arts College for Women at Madurai is concerned.

For Appellant : Mr.L.Shaji Chellan
For Respondent : Mrs.J.Padmaavathi Devi,
Special Government Pleader.

JUDGMENT

(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)

The appellant aggrieved by the notification dated 02.11.2017 issued by the respondent had filed W.P(MD)No.22888 of 2017.



2. It is the contention of the appellant/writ petitioner that the impugned tender schedule is contrary to the tender notification. Earlier, there was a G.O(2D)No.16, Higher Education (D1) Department, dated 03.03.2016, by which, there was a direction to combine the electrical works with relevant civil works in the estimate for buildings costing more than Rs.10.00 crores in respect of the Government Colleges/Universities. Subsequently, considering the difficulties experienced in carrying out the electrical works in coordination with civil works, which was causing more delay in completion of buildings and handing over completed buildings to user department, the Government thought it fit to entrust the civil and electrical works of the buildings of Colleges and Universities, costing more than Rs.1 crore to a single agency. As earlier G.O(2D)No.16, Higher Education (D1) Department, dated 03.03.2016 was issued for combining the civil and electrical works costing more than Rs.10.00 crores, G.O(2D) No.76, Higher Education (D1) Department, dated 16.12.2017, was issued modifying the same and reduced the cost of combined work, which are costing more than Rs.1 crore to a single agency.

3. The learned single Judge had dismissed the Writ Petition on the ground that in the matter of formulating condition in the tender notification, greater latitude is required to be conceded to the State authorities.

4. It is argued by the learned counsel appearing for the appellant/writ petitioner that the tender notice was issued on 02.11.2017 and published on 05.11.2017, whereas the notification was issued on 16.12.2017. Therefore, the subsequent notification dated 16.12.2017 is inapplicable to the tender.

5. A perusal of the notification would go to show that the Government Order in G.O(2D)No.76, Higher Education (D1) Department, dated 16.12.2017 has been issued only for the interest of the public, after considering the difficulties experienced by the authorities in executing a contract. In the G.O itself, it has been given in detail that laying of pipeline for electrical wiring and concrete for roof slab are to be taken up simultaneously, so that the progress of work would not suffer. Likewise concealing of pipes in the walls for electrical wiring also to be taken up simultaneously. As the above works require absolute coordination between the electrical contractors and the civil contractors, the Government thought it fit to issue the above G.O. Further, in view of lack of coordination, redoing of plastering and finishing works will spoil the appearance of the building. Therefore, there is no malice in the above said G.O and there is no material to show that the respondent had reduced the value from Rs.10.00 crores to Rs.1 crore and above is arbitrary. In the absence of any malafide intention on the part of the respondent, the learned Single Judge has rightly dismissed the Writ Petition and hence, the same does not warrant any interference. The contention of the learned counsel appearing for the appellant



is that the appellant is one of the registered electrical contractor and that he has to be at the mercy of the civil contractor cannot be the ground for not having the combined work which would be beneficial for the institution.

6. In the light of the above, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The Chief Engineer (PWD),
Technical Education Circle,
Chennai - 600 025.

+1cc to Mr.L.Shaji Chellan, Advocate SR.No.80204

+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.80352

Ps

MK/RP/SAR 1/10.09.2018/3P/4C

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