



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.09.2018

CORAM:

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**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.P.[MD].Nos.12434 and 18204 of 2018
and
W.M.P. (MD) .Nos.16111 and 11309 of 2018

W.P. (MD) .No.12434 of 2018:

C.Selvakumar

: Petitioner

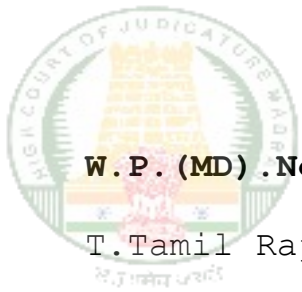
Vs.

1. The Chief Engineer,
National Highways,
Guindy, Chennai 600 025.
2. The Superintending Engineer,
National Highways, Tirunelveli.
3. The Superintending Engineer ©,
M/o.Road Transport & Highways,
Highways Block - A, C-Wing, Rajaji Bhawn,
Besant Nagar, Chennai 600 090.
4. The Director,
Department of Vigilance and Anti-Corruption [DVAC],
Government of Tamil Nadu, Chennai 16.
5. The Deputy Superintendent of Police,
Department of Vigilance and Anti-Corruption,
Nagercoil.
6. T.Tamilraj

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 18.04.2018 in Petn.No.4019/2018/MISC/KK, on the file of the fourth respondent and quash the same and consequently direct the respondents to initiate action on the complaint dated 11.04.2018.

For petitioner : Mr.Puhazh Gandhi
For respondents 1to5 : Mr.A.K.Baskarapandian
Special Government Pleader
For Respondent No.6 : Mr.T.Lajapathi Roy



W.P. (MD).No.18204 of 2018:

T.Tamil Raj

: Petitioner

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Vs.

1. The Chief Engineer,
Highways Department,
Guindy, Chennai 600 025.

2. The Superintending Engineer,
Office of the Superintending Engineer,
National Highways Circle,
Tirunelveli District 627 007.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2 to issue the work order to the petitioner for the works pertaining to the strengthening the existing carriage way from Kms.599/0-655/0 of National Highway 47 and strengthening of the existing carriage way from Kms.0/0-22/6 of National Highways 47-B in the State of Tamil Nadu, in the light of the proceedings of the second respondent in Ka.No.T.R.P.65 and 66/2017-2018/18/vethaa/28.05.2018 within the time frame stipulated by this Court.

For petitioner

: Mr.T.Lajapathi Roy

For respondents

: Mr.A.K.Baskarapandian

Special Government Pleader

COMMON O RDER

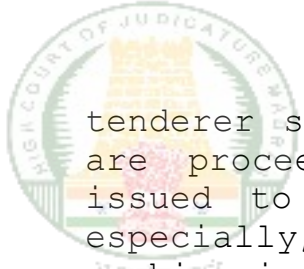
[Order of the Court was made by M.M.SUNDRESH, J.]

Considering the fact that the issue involved in both the Writ Petitions is inter-linked, they have been taken up together, heard and the Writ Petitions are disposed of by means of this Common Order.

2. W.P.(MD).No.12434 of 2018 has been filed seeking to quash the order dated 18.04.2018 and for a consequential direction to the official respondents to initiate action on the complaint made by the petitioner dated 11.04.2018. The said Writ Petition has been filed on the premise that the petitioner in W.P.(MD).No.18204 of 2018, at the time of participating in the tender, has given false and fabricated document while getting himself declared as successful tenderer.

<https://hcservices.ecourts.gov.in/hcservices/>

3. W.P.(MD).No.18204 of 2018 has been filed by the successful



tenderer seeking confirmation of auction in his favour, as there are proceedings initiated, pursuant to the show cause notice issued to him for not furnishing the particulars sought for, especially, with reference to the location of the lessor of the machineries, pursuant to the lease deed produced by him.

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4. A counter affidavit has been filed by the Superintending Engineer, National Highways, Tirunelveli, in W.P.(MD).No.12434 of 2018, wherein it has been stated in Paragraph Nos.9 to 12, which read as follows:-

"9. I submit to state the in view of the above, an explanation was called for from the lowest bidder Thiru.T.Tamilraj, vide this office show cause notice No.TRP.65/2017-18/DO [NH 47 work] dated 26.06.2018 and TRP.66/2017-18/DO [NH 47 work] for those two works.

10. I submit to state that the above show cause notice had been delivered by Registered Post, on 29.06.2018 and 02.07.2018 respectively.

11. I submit to state that the lowest bidder Thiru T.Tamilraj has submitted the reply vide his Lr.No.nil, dated 10.07.2018 stating that there is no fault on his side [Received in this office on 13.07.2018].

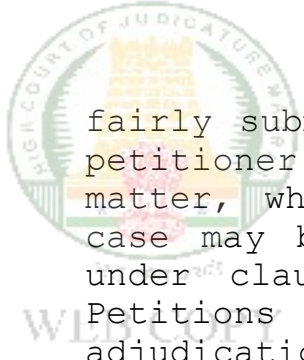
12. I submit to state that as the genuineness of the document produced by the lowest bidder could not be established and hence, the lowest bid would be rejected and re-tender may be called for by the evaluation committee in the upcoming meeting".

5. In view of the above, nothing survives for adjudication in both the Writ Petitions. Therefore, liberty is given to the respondents 1 and 2 herein to proceed afresh by calling fresh tenders. After all, no Writ of Mandamus could be issued to an authority to confirm the tender, as there is no concluded contract.

6. The learned counsel appearing for the petitioner in W.P.(MD).No.12434 of 2018 would submit that in view of clause 37 of the tender document, there is a corrupt and fraudulent practise involved, since there is no lessor, as alleged by the successful tenderer and therefore, consequence will have to follow.

7. The learned counsel appearing for the petitioner in W.P.(MD).No.18204 of 2018 would submit that earlier a satisfaction was expressed and therefore, W.P.(MD).No.12434 of 2018 is not maintainable as against the tenderer.

<https://hcservices.courts.gov.in/hcservices>
8. As before said, we are not inclined to go into the merits of the case. This is also for the reason that the learned counsel appearing for the petitioner in W.P.(MD).No.18204 of 2018 would



fairly submit that the fresh tenders can be called for, but, the petitioner will have to be permitted to participate. This is a matter, which can be decided by the respondents 1 and 2 as the case may be. They are the authorities concerned to take action under clause 37 of the tender document. Thus, both the Writ Petitions are disposed of by holding that nothing survives for adjudication with liberty to the respondents 1 and 2 to proceed further by taking appropriate action under clause 37 of the tender document for alleged violation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Chief Engineer,
National Highways,
Guindy, Chennai 600 025.
 2. The Superintending Engineer,
National Highways, Tirunelveli.
 3. The Superintending Engineer,
M/o.Road Transport & Highways,
Highways Block - A, C-Wing, Rajaji Bhawn,
Besant Nagar, Chennai 600 090.
 4. The Director,
Department of Vigilance and Anti-Corruption [DVAC],
Government of Tamil Nadu, Chennai 16.
 5. The Deputy Superintendent of Police,
Department of Vigilance and Anti-Corruption,
Nagercoil.
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 85205 & 85206
+ 2 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 85086 & 85164

NB

TE/SV/SAR-2 : 28/09/2018 : 4P/9C

COMMON ORDER MADE IN
W.P. [MD].Nos.12434 and 18204 of 2018
18.09.2018