



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2018

CORAM :

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.15336 of 2017
and
WMP (MD) No.12150 of 2017

M/s.SLE Hospitality Management Services,
rep.by its Proprietor S.Pradeepkumar
No.28-B, 1st floor, 1st main road,
Shasthiri Nagar, Adayar,
Chennai - 600 020.

... Petitioner

Vs.

The Superintending Engineer,
Central Public Works Department,
Madurai Circle,
Nirman Bhawan
Plot No.C1, Tamil Nagar,
Koodalpudur,
Anaiyur Post,
Madurai - 625 017.

... Respondent

Petition filed under Article 226 Constitution of India to issue a writ of Certiorari calling for the records relating to the impugned order No.12(4)MCC/2017/306 dated 28.07.2017 on the file of the respondent and quash the same.

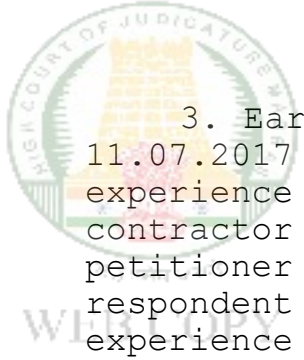
For Petitioner : Mr.K.Rajeshwaran

For Respondent : Mrs.Victoria Gowri

ORDER

This writ petition has been filed challenging the order passed by the respondent suspending the petitioner from participating in all the tenders called for by the Central Public Works Department under Madurai Central Circle's jurisdiction.

2.According to the petitioner, the petitioner company is a class-V (civil) contractor in Madurai central circle of Central Public Works Department. The petitioner company participated in various tenders for awarding contract works in the Madurai Central Circle class-V (civil) category. Originally, the petitioner office was situated at Kotturpuram, Chennai and during the flood in December, 2015, all their documents got destroyed.

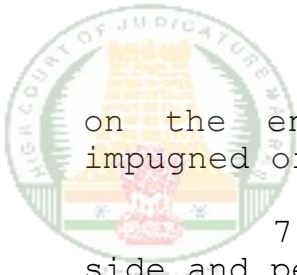


3. Earlier, the respondent has issued a show cause notice dated 11.07.2017 contending that the petitioner has produced fake experience certificate to register himself as class-V (Civil) contractor and directed him to submit his explanation. Since the petitioner has lost all his documents, he sent reply to the respondent requesting him to furnish the true copy of the work experience certificate and other documents enabling the petitioner to give suitable reply. After receiving the representation, without furnishing the copy as required by the petitioner and without conducting any enquiry whatsoever, the respondent now passed the impugned order suspending the petitioner from participating any of the tender floated by the respondent. Challenging the same, this writ petition has been filed.

4. The respondent has filed a counter affidavit stating that while the petitioner has applied for enlistment of contractors with CPWD, the petitioner has produced a work experience certificate of M/s.Sri Lakshmi Enterprises, Chennai, for the work of construction of one class room at Thiruparankundram Government School, Madurai and after verifying the documents, the petitioner has been enlisted in Class-V category of contractor. Subsequently, during March, 2017, based on the complaint received from one Sri.M.K.Channarayappa, Bangalore regarding the above fake work experience certificate, the Vigilance Unit, CPWD, New Delhi sought for comment from the respondent. Thereafter, an enquiry committee was constituted to enquire about the work experience certificate produced by the petitioner. The enquiry committee has also conducted an enquiry with the Executive Engineer, PWD, Buildings (C&M) I, Madurai and confirmed that no such work has been executed by the petitioner and the work experience certificate produced by the petitioner is a fake one. Thereafter, show cause notice was issued to the petitioner, directing him to submit explanation. Since the reply submitted by the petitioner is not satisfactory, the impugned order has been passed.

5. The learned counsel appearing for the petitioner submitted that pursuant to the show cause notice issued by the respondent, the petitioner has sought for some documents from the respondent and also sought further time to give his explanation. But without considering the same, without conducting enquiry whatsoever, the impugned order has been passed. The learned counsel further submitted that after filing the writ petition, the respondent has produced a copy of the certificate on 31.08.2017. In the above circumstances, an opportunity can be given to the petitioner to submit his explanation and establish that the work experience certificate produced by the petitioner is not fake.

6. The learned counsel appearing for the respondent submitted that after enquiry, the Department come to the conclusion that the certificate produced by the petitioner is fake one and thereafter, a show cause notice was issued to the petitioner. The petitioner without giving any reply, has simply sought time to drag



on the enquiry proceedings. Under the said circumstances, the impugned order has been passed

7. I have considered the rival submissions made on either side and perused the entire documents carefully.

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8. Admittedly, the respondent has come to a conclusion that the work experience certificate produced by the petitioner is fake, based on an enquiry conducted by them and thereafter, a show cause notice has been issued to the petitioner and such conclusion was arrived at by the respondent based on an inter-departmental enquiry conducted by them behind the back of the petitioner. Thereafter, a show cause notice has been issued to the petitioner, for which, the petitioner has sought for some documents and also sought time to submit his explanation to which he is entitled. But, without furnishing copy of the certificate and also without giving sufficient opportunity to the petitioner to submit his objection and without conducting enquiry whatsoever, the impugned order has been passed, in total violation of principles of natural justice. On that ground, the impugned order is liable to be set aside and accordingly, it is set aside.

9. Now, it is stated that pending writ petition, a copy of the certificate as sought by the petitioner has been furnished to him. In the above circumstances, the petitioner is directed to submit his explanation to the show cause notice within a period of four weeks from the date of receipt of a copy of this order. On receipt of such explanation, the respondent is directed to conduct enquiry and pass suitable orders after giving opportunity of hearing to the petitioner within a period of six weeks thereafter.

10. With the above direction, this writ petition is allowed. No costs. Consequently, WMP(MD)No.12150 of 2017 is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Superintending Engineer, Central Public Works Department,
Madurai Circle, Nirman Bhawan, Plot No.C1, Tamil Nagar,
Koodalpudur, Anaiyur Post, Madurai - 625 017.

+1CC to Mr.K.Rajeshwaran, Advocate, SR.No. 58809

+1CC to M/s.L.Victoriya Gowri, Advocate, SR.No. 58568

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