



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 09.11.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.19253 of 2018

P.Jayakumar

..Petitioner

Vs

1.The Superintending Engineer,
WRO/Public Works Department,
Thamiraparani Basin Circle,
Tirunelveli District.

2.The Engineer in Chief,
WRO & Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai- 600 005.

(second respondent impleaded as per order made in
W.M.P(MD)No.19878 of 2018 in W.P(MD)No.19253 of 2018,
dated 09.11.2018)

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to register the Petitioner's name as a Class-I Contractor and issue Register Certificate by considering his application dated 16.7.2018 within the time stipulated by this Court.

For Petitioner :Mr.D.Selvanayagam

For Respondents :Mr.S.Dhayalan
Government Advocate

ORDER

The Petitioner prays for issuance of Writ of Mandamus directing the respondents to register the Petitioner's name as a Class-I Contractor and issue Register Certificate by considering his application, dated 16.7.2018 within the time stipulated by this Court.

2.The case of the Petitioner is that he has registered himself as Class-I Contractor in the first respondent Office from 27.11.2002 and he has been continuously renewing the same and he has been



doing all contractual works in various town panchayats and Municipalities in and around Kanyakumari District. He has also completed the contract works worth more than Rs.1 crore. The Petitioner would further contend that he is eligible to be classified as Class-I Contractor and he has applied to the first respondent to register himself as Class-I Contractor and he has also obtained necessary certificates from the concerned authorities and enclosing Solvency Certificate worth about Rs.50 lakhs, Encumbrance certificate, Income Certificate, GST Certificate, Experience Certificate and PAN Card. He has sent an application, dated 16.07.2018 to the first respondent by Registered post with Acknowledgment Due, which was acknowledged by the first respondent and had not considered the application of the petitioner. As per the eligibility criteria fixed by the respondents in their Citizen Charter 2009-2010 at Class-7.1.1, the procedure for availing the Services to the Public and registration as Contractors, there are qualifications prescribed which reads as under:

7.SERVICES

7.PROCEDURE FOR AVAILING THE SERVICES TO THE PUBLICATION

7.1.1.Registration as Contractors

Prescribed qualifications for Perspective Contractors

Financial capacity

Experience in the Building activities

Solvency Certificate for the immovable property

Charges for Registration

Information: Works are entrusted to the registered Contractors only. Choice and Consultation: The registration can be done in the respective circles by Superintending Engineers in consultation with the Executive Engineers in appropriate class depending on their financial capacity, experience etc.

Class I - above Rs.75 lakh

Class II- upto Rs.75 lakh

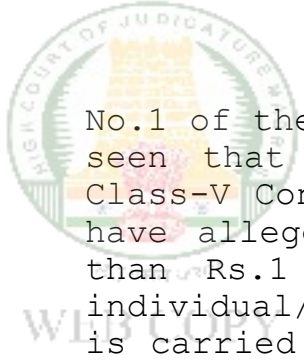
Class-III- upto Rs.30 lakh

Class-IV-upto Rs.15 lakh

Class-V- upto Rs.6 lakh

3.Accordingly, he submits that he is ready to do work, worth more than Rs.75 lakhs, whenever the respondents allotted work to him, but even though he is qualified, his application for considering him as Class-I Contractor was not considered and hence, the Petitioner seeks for the intervention of this Court to sort out this issue with the respondents and direct the respondents to register him as Class-I Contractor. The main grievance is even though he is qualified, the respondents have not considered his case.

4.The respondents have filed a detailed counter, in which, it could be seen that they have denied the fact that the Petitioner is a P.W.D Contractor, which has been refuted by the Petitioner and he has produced relevant documents which has been annexed at Page



No.1 of the typed-set of papers filed by the Petitioner. It could be seen that on 27.11.2002, the Petitioner has been appointed as Class-V Contractor in the Public Works Department. The respondents have alleged that the Petitioner has engaged in work worth more than Rs.1 crore in Town Panchayats and Municipalities, but no individual/single work is worth more than the value of Rs.75 lakhs is carried out in the Public Works Department. Hence the Petitioner cannot be considered as Class-I contractor as per P.W.D Registration Code of Rules. Even though up-gradation of class in the Contractor Registration is gradually possible, depending upon the works carried out by the persons in the said Department every year. Classifying himself as Class-I Contractor from Class-5 Contractor, will not be allowed as per the P.W.D Registration Code of Rules and as per various Government Orders stating that the Petitioner is not qualified as such. The Citizens charter 2009-2010 was not published by the respondents. It was published by the Tamil Nadu P.W.D Ministry about the activities/Services of P.W.D Buildings Organization. Even as per the Citizens Charter, the Petitioner is not having the sufficient eligibility to be classified as Class-I Contractor and he cannot be allowed to register himself as such. The Petitioner has to directly approach the Engineer in Chief, WRD & Chief Engineer for registering himself as Class-I Contractor, up-gradation and renewal in future based on the Government Order in G.O.Ms.No.221 PW(G2) Department, dated 16.8.2018. The respondents deny that the Petitioner is having the eligible qualification to be classified as Class-I Contractor.

5.The Petitioner would further contend that on 11.11.2018, he has been asked to do work worth more than Rs.1 crore I.e, for Rs.1,01,86,962/- and various projects have been done by the Petitioner in the Public Works Department. He would also further contend that in the above said Government Order, there is no mention about the classification of the Contractors and that the contractors ought to have done project worth more than Rs.1 crore in the Public Works Department. In the absence of such qualification prescribed, the Petitioner's case should be considered.

6.Based on the above submissions, it could be seen that the Petitioner was registered only as Class-5 contractor and is trying himself to register himself as Class I Contractor, for which, there is conditions stipulated in G.O.Ms.No.221, issued by the Public Works(G2) Department, dated 16.8.2018.

7.The Petitioner's contention is that he has done works worth more than Rs. 1 crore in a single project in town panchayats and he would further submit that there is no bar for him to be registered as Class-I Contractor and hence, this Court should intervene and pass orders in favour of the Petitioner.

ABSTRACT

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

Public Works Department - Registration of the contractors in



all classes I to V I.e., Division Level, Circle Level and State Level by the Engineer in Chief, Water Resources Department and Chief Engineer(General), Public Works Department, Chennai-5 in a single window manner - Orders - Issued

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Public Works (G2) Department

G.O(Ms) No.221

Dated: 16.8.2018
Vilambi, Aadi - 31,
Thiruvalluvar Aandu 2049
Read:

- 1.G.O.(Ms)No.1789, Public Works (G2) Department, dated 29.12.1992.
 - 2.G.O(MS)No.222, Public Works (G2) Department, dated 8.4.1999.
 - 3.From the Engineer in Chief, Water Resources Department and Chief Engineer General), Chennai Letter No. HDO/SDO.
- Registration of Contractors/2018 dated 16.7.2018.

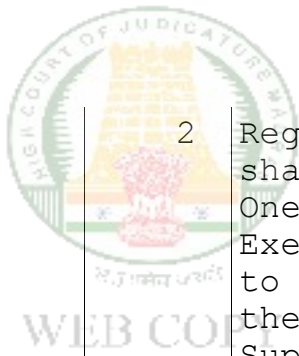
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ORDER

In the Government Order first read above, orders have been issued regarding the procedures for Registration of the Contractors in Public Works Department/Highways Department.

2.The Recommendations of the first Report of the High Level Committee under the chairmanship of Justice Thiru.D.Ramanujam constituted to examine and recommend procedural reforms and other measures for eliminating and preventing corruption in administration have been examined by government and in the orders second read above, amount other things, the following orders were issued regarding registration of contractors.

SL.No.	Recommendation of the High Level Committee	Order of the Government The Monetary limit for categories of
1	The existing categorization of contractors into five classes with reference to the value of works they are considered competent to execute may continue	Registration of Contractors shall be revised as follows:- Class I :above Rs.75 lakhs Class II :upto Rs.75 lakhs ClassIII :upto Rs.30 lakhs ClassIV :Upto Rs.15 lakhs ClassV :Upto Rs.6 lakhs



2	Registration of contractors shall be done at two levels. One at the level of Executive Engineer in regard to categories IV and V and the other at the level of Superintending Engineer in regard to categories I,II and III Registration at each level shall be decided by the Committee of Officers.	Registration of Contractors of Class V only shall continue to be done by the Executive Engineers. The other classes of contractors shall be registered by the Superintending Engineers. There is no need of a committee for taking decision on registration of contractors.
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3. In his letter third read above, the Engineer-in-Chief, Water Resources Department and Chief Engineer(General), Public Works Department, Chennai has stated that as per the rules now in force, Registration of contractors is being done by the Superintending Engineer, Public Works Department/Water Resources Department for the Classes 1 to IV and Executive Engineer, Public Works Department/Water Resources Department for the Classes V respectively. The registered contractors are participating in tenders and are being received by the Engineer in Chief, Water Resources Department and Chief Engineer(General), Public Works Department for scrutiny and placed before the Tender Award Committee for approval. Many of the contractors have not renewed their registration by providing Income Tax Clearance Certificate, Goods and Service Tax, Encumbrance Certificate, Solvency Certificate etc and have not kept their registration alive. If the registration of contractors is done by the Engineer in Chief, Water Resources Department and Chief Engineer(General), Public Works Department, in a single window manner, it will be quite effective to monitor the registration of all the Public works Department/Water Resources Department contractors throughout the State of Tamil Nadu and it will be easy to verify the genuineness of the records furnished by the contractors for registration.

4. In the circumstances stated above, in his letter third read above, the Engineer in Chief, Water Resources Department and Chief Engineer(General), Public Works Department, Chennai has sent proposals regarding revision of procedure for registration of contractors in Public Works Department as a single window manner and requested orders of the Government.

5. The Government after careful examination decided to accept the proposals of the Engineer in Chief, Water Resources Department and Chief Engineer(General), Public Works Department, Chennai and hereby issue the following orders:-

(1) Registration of all the contractors in all classes 1 to V ie., Division Level, Circle Level and State Level shall be done as a single window system by the Engineer in Chief, Water Resources Department and Chief Engineer(General) Public Works Department, Chennai.

(ii) The applications received in the office of the Engineer in Chief, Water Resources Department and Chief Engineer (General),



Public Works Department, Chennai-5 from the contractors with payment of prescribed application fee shall be sent to the respective division/circle in which territory the contractor intending to register, for thorough scrutiny of the applications as per the rules/orders in force for ensuring the eligibility of the contractors for registration and for verifying the bona-fide of the evidence produced by the applicants,. After that, the applications may be sent back to the Engineer in Chief, Water Resources Department and Chief Engineer(General), Public Works Department, Chennai-5 with recommendation of the Superintending Engineer/Executive Engineer concerned.

(iii) Hereafter the application for the renewal of contract registration for every year shall be submitted to the Office of the Engineer in Chief, Water Resources Department and Chief Engineer (General), Public Works Department, Chennai-5, before the expiry date of renewal so as to keep the contractor registration alive. The contractor registration live certificate will be valid only for a period of one year from the date of issue of renewal order.

(iv) all the records/registers along with relevant files, in originals, in respect of the existing registered contractors in all the circles/Divisions shall be handed over to the Engineer in Chief, Water Resources Department and Chief Engineer(General), Public Works Department, Chennai-5 immediately.

6. The Engineer in Chief, Water Resources Department and Chief Engineer(General), Public Works Department, Chennai is directed to send necessary draft amendment proposal to the relevant Rules in Public Works Department Code, to Government at the earliest.

7. This order issues with the concurrence of Finance Department vide its U.O.No.42384/P.W.II/2018, dated 14.8.2018.''

8. The respondents contention is that he is not at all a P.W.D Contractor, is proved to be false and it could be seen that he has registered himself as Contractor Class-V in the year 2002 itself in Public Works Department.

9. The Government has issued the above Government Order from which we could infer that the Petitioner had to submit various certificates along with the application and fees to register under the Single Window System by the Engineer in Chief, Water Resources Department and Chief Engineer(General), Public Works Department, Chennai. The application so received will be sent to the respondents Division or Circle to which area the Contractor wishes to register and as per rules and orders in force to check the eligibility criteria being fulfilled and after verifying the bona-fide, the application will be sent back to the Office of the Engineer in Chief, Water Resources Department and Chief Engineer (General), Public Works Department, Chennai.



10.As per the contention of the Petitioner, an opportunity should be given to him in order to produce all the relevant documents to establish his case that he is eligible to be classified as Class-I Contractor.

11.Hence, in order to give an opportunity, the respondents are directed to consider the application submitted by the Petitioner on 16.7.2018 with relevant documents and fresh materials, if any, submitted and to be produced by affording an opportunity of personal hearing and pass appropriate orders in accordance with relevant rules and Laws within a period of eight weeks from the date of receipt of a copy of this order. The Petitioner is also directed to co-operate with the authorities by producing relevant documents on the said date fixed by the respondent, so as to consider his case for classifying himself as Class-I Contractor.

12.With the above directions, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub Assistant Registrar(CS-I)

vsn

To

- 1.The Superintending Engineer,
WRO/Public Works Department,
Thamiraparani Basin Circle,
Tirunelveli District.
- 2.The Engineer in Chief,
WRO & Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai- 600 005.

+1cc to Spl Government Pleader, SR No.94752
+1cc to Mr.D.Selvanayagam, Advocate in SR No.94681

W.P(MD)No.19253 of 2018

NM/SKN/SAR I/23.11.18/7P/5C.