

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 04.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.No.22604 of 2004

T.Viswanathan

... Petitioner

V.

The Govt. of India,
Ministry of Urban Development
and Poverty Alleviation
Central Public Works Department
rep. by its Executive Engineer,
Chennai-6.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to proceedings No.59(3) CCC-1/2004/Enlist/690 dated 29.06.2004 issued by the respondent and to quash the same and to direct the respondent to issue order of regularisation of enlistment as Class V (Civil) Contractor of CPWD.

For Petitioner : Ms.S.Nandhini Devi for
R.Subramanian

For Respondent : Mrs.Anuradha Sekar, ACGSC

O R D E R

The petitioner, who's request for regularisation of Enlistment as a Class V (Civil) Contractor, was rejected by an impugned order dated 29.06.2004 on the ground that the petitioner had not completed any work during the provisional period at CPWD, has challenged the same in the present Writ Petition.

2. Heard Ms.S.Nandhini Devi, learned counsel for the petitioner and Mrs.Anuradha Sekar, learned Additional Central Government Standing Counsel appearing on behalf of the respondent.

3. The learned counsel for the petitioner submitted that

the reasoning given by the respondent in the impugned order is factually incorrect since they had undertaken a contract for Rs.1 lakh and also completed the same and received the payment also. As such, the learned counsel sought for quashing of the impugned order passed by the respondent dated 29.06.2004.

4. The learned Standing counsel for the respondent submitted that the petitioner's application seeking for regularisation was enclosed with their performance report, which evidences that the work, which the petitioner has undertaken was not completed and therefore, there was no infirmity in the order passed by the respondent.

5. The rules for enlistment for Civil Contractors in CPWD requires a pre-qualification for having completed one work value of Rs.1 Lakh or two works values of Rs.50,000/- each, during the relevant period. The respondent, in their counter affidavit dated 28.09.2004, have stated that the writ petitioner had undertaken a work which was not completed till 11.05.2004 and that was the reason for rejection of his request for regularisation. Insofar as the other works, which the petitioner claims to have completed, it is stated in the counter that the work undertaken by him from the Airport Authorities of India (AAI) for more than Rs.1 lakh value, was never brought to the notice of the respondent in the original application and since the work mentioned in their application, at that point of time was incomplete, the impugned order came to be passed. As such, the respondent's action in rejecting the petitioner's request in the impugned order cannot be found fault with.

7. Nevertheless, in view of the specific statement in para 5 of the counter affidavit that the subsequent work of Rs. 1 lakh undertaken and completed by the petitioner in connection with the Airport Authority of India, the petitioner may be eligible for enlistment as Class V (Civil) Contractor as per Rule 6.6, for enlistment of Contractor in CPWD 2001. Now that, the respondent has come forth with a specific case that they were not brought to the notice about the other work of Rs.1 lakh which the petitioner has completed, it would be appropriate for this Court to grant liberty to the petitioner to approach the respondent once again with a fresh application, detailing the works which he has already completed, for reconsideration of their earlier decision.

8. In the light of the above observations, the impugned order passed by the respondent in proceedings No.59(3) CCC-1/2004/Enlist/690 dated 29.06.2004 is hereby quashed. Consequently, the petitioner herein is granted liberty to approach the respondent herein by way of an application, seeking for regularization of his enlistment as Class V Civil

Contractor. On receipt of such application, the respondent herein shall consider the same as expeditiously as possible, in any event, within a period of twelve weeks from the date of receipt of such application.

9. With the above observations and direction, the Writ Petition stands ordered accordingly. No costs.

Sd/-

Assistant Registrar (CJ Conf)

//True Copy//

Sub Assistant Registrar

jrs/DP

To

The Executive Engineer,
The Govt. of India,
Ministry of Urban Development
and Poverty Alleviation
Central Public Works Department
Chennai-6.

+1cc to Mr.R.Subramanian, Advocate, S.R.No. 33117
+1cc to Mr.Anuradha sekar, Advocate, S.R.No. 33001

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RJI (CO)
GN(04/06/2019)

सत्यमेव जयते

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