

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 25.03.2019

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

WP.No.20352 of 2010

D.P.Thangaraj

... Petitioner

Vs

1.The Special Chief Engineer,
National Highways,
Salem-4.

2.The Superintending Engineer, (C&M)
Highways Circle,
Salem-2.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings in Se.Mu.Ka.No.3923(1)/E.V.A1/2010 dated 27.08.2010 on the file of the 1st respondent quash the same and direct the respondents to permit the petitioner to continue the existing works. ,

For Petitioner:M/S.S.Doraisamy

For Respondent: Mr.R.P.Prathapsingh, Govt. Advocate

ORDER

The petitioner filed the writ petition sought for a prayer that Writ of Certiorarified Mandamus and to quash the 1st respondents order dated 27.08.2010 in the proceedings in Se.Mu.Ka.No.3923(1)/E.V.A1/2010 and further direct the respondents to permit the petitioner to continue the existing works in the respondents departments. By order dated 27.08.2010, the petitioner was degraded from clause I Contractor to Class IV contractor. Challenged the same, the petitioner filed this writ petition.

2.The petitioner, who has been registered as contractor in the Highways Department, from the year 1998 in the Salem Division and continuing as Class I Contractor and for qualifying

as Class I Contractor, financial capacity of the contractor should be Rs.25,00,000/- and in the year 2007, the same was increased to Rs.75,00,000/- and the petitioner was renewed as Class I Contractor, by order dated 11.03.2008 vide proceedings No.Se.Mu.Ka.No.C.R.(10v) 6291/2007/EVA-1, and the said registration was extended for further period up to 31.03.2011. Due to political enmity or reasons, the respondents have not permitted the petitioner to participate in future contracts and passed the impugned order on 27.08.2010 stating the flimsy reason that the petitioner has not completed or shown improvements with the projects which are on his hand.

3.The petitioner would submit that without being heard or giving an opportunity, the respondents have passed the impugned order which is against the principles of natural justice and only to satisfy some third persons, the petitioner has been degraded from Class-I contractor to Class-IV Contractor. In the said impugned order there was no details have been given it is contrary to fabricated order.

4.First respondent has filed the counter and stated various reasons for the petitioner being degraded from Class-I contractor to Class-IV Contractor. It is stated that the various projects which have been entrusted to the petitioner have not been completed within the said period agreed upon. Since, there was no progress shown by the petitioner, respondents have decided that the petitioner's shortfall in progress has not made good and hence they passed the impugned order and have also imposed penalty regarding certain works. In spite of earlier notices of warning, the petitioner has not corrected himself to complete the said works awarded to him. The said impugned order passed by the respondent's only as per the Standardized Code of contractors issued by the Government of Tamil Nadu.

5.The counsel for the respondents would further submit that the petitioner has been banned by the Collector of Dharmapurai, in the order dated 12.07.2010, from participating in the tenders of the District Rural Development Agency and Panchayat Union, due to the failure of the petitioner in completing of the works and he has also been given warning, stating that his name will be black listed from the list of contractors by the District Collector Dharmapuri. Hence, they would reiterate that the petitioner has been degraded from Class I Contractor to Class IV contractor only on the basis of his performance in the projects and for non-completion of the projects and there is no other intention for the respondents to degrade the petitioner.

6.At this juncture, the learned counsel for the petitioner would submit that since by way of interim order the petitioner is continuing as Class I Contractor, the same may be continued.

The learned counsel also would submit that as the second prayer for continuing the existing works have already been completed by this petitioner as per Court's intervention, nothing survives for adjudication in this Writ Petition and hence, the Writ Petition may be closed.

7. Since the petitioner is continuing till date as Class I Contractor and as per the interim order, he has also not been degraded or blacklisted, nothing survives for further adjudication.

8. With the above observation, this Writ Petition is closed. No costs.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

jrs
To

1.The Special Chief Engineer,
National Highways,
Salem-4.

2.The Superintending Engineer, (C&M)
Highways Circle,
Salem-2.

+1 CC to Mr.S.Doraisamy, Advocate sr 27918

+1 CC to Govt. Pleader sr 28574.

WP.No.20352 of 2010

सत्यमेव जयते

AK(CO)
SP(03/05/2019)

WEB COPY