

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.4235 of 2019

M/s.7x24 Enterprises,
Rep. By its Partner and Authorized Signatory,
Jayabalaji,
10, Thirunavukarasu Street,
Alagapuram, Salem. ... Petitioner

Vs

- 1.The Superintending Engineer,
TANGEDCO,
Mettur Electricity Dist Circle,
Central Office, Mettur District.
Salem District.
- 2.M/s.Sivam Enterprises,
Rep. By its Partner A.Dhamodaran,
Kanganipatti,
Mutthampatty Post,
Omalur, Salem District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the first respondent to reject the second respondent's application from tender specification No.SE/MEDC/MM/CMC/Specification No.111/2018-2019, dated 06.12.2018 and subsequently remove the name of the second respondent from the Bidders list pursuant to the petitioner's representation dated 11.02.2019.

For Petitioner : Mr.M.Subash
For R1 : Mr.S.K.Raameshwar,
standing counsel
For R2 : Mr.T.Anbazhagan

ORDER

The petitioner/ M/s.7x24 Enterprises, Salem, represented by its Partner Mr.Jaya Balaji, has filed this writ petition seeking for a direction to the first respondent / the

Superintending Engineer, TANGEDCO, Salem, to reject the application submitted by the second respondent / M/s.Shivam Enterprises, represented by its Partner Mr.A.Dhamodaran, from the Tender Specification dated 06.12.2018 and then to remove his name from the Bidders List pursuant to the representation dated 11.02.2019 submitted by the petitioner.

2. It is submitted by the learned counsel for the petitioner that the petitioner, claiming to be a partnership firm, has been running the said firm for the past ten years and the first respondent / the Superintending Engineer, TANGEDCO, Mettur Electricity Distribution Circle, Salem, is also engaging the petitioner for various project works across the State of Tamil Nadu including the comprehensive maintenance contract projects. Whiles, the first respondent issued the impugned tender specification for the project Best Phase I & II equipments in Mettur Electricity Distribution Circle for a period of one year. The petitioner and the second respondent took part in the said tender process. But, surprisingly, the first respondent has wrongly accepted the tender document submitted by the second respondent on the ground that the second respondent is also having the requisite working experience. It is further stated that while the second respondent was working with the petitioner's firm, at no point time, the petitioner has issued experience certificate in favour of the second respondent. However, the second respondent has produced a bogus experience certificate and being convinced with the said certificate, the first respondent has also issued purchase order in favour of the second respondent. It is contended, at no point of time, the petitioner's firm issued experience certificate to the second respondent, therefore, the work order issued by the first respondent in favour of the second respondent is liable to be set aside.

3. Opposing the above said prayer, learned Standing counsel appearing for the first respondent, by filing a counter affidavit, submitted that the petitioner's firm, vide its letter dated 30.01.2018, deputed Mr.A.Thomadharan/second respondent herein, Mr.S.Thangaraj and Mr.Jayaprakash, as Resident Service Engineer for Mettur EDC from 24.01.2018 and that the documents produced by the Senior Manager/Information System/Mettur Electricity Distribution Circle show that the second respondent is having work experience in Mettur EDC from 05.09.2014 onwards and it is further stated he has also fulfilled the Bid Requirement Conditions (BQR). By citing all these documents, it is argued that when the petitioner's firm themselves have given a certificate, they cannot now turn and deny that they did not give experience certificate merely for a reason that they were unable to secure work order. It is further stated that the original experience certificate produced by the second

respondent is also available with the first respondent, therefore, it is not open to the petitioner to say that the certificate produced by the petitioner is a bogus one.

4. It is submitted by the learned counsel for the second respondent that the petitioner has not only issued the experience certificate in favour of the second respondent but also issued the same work experience certificate in favour of other persons working in the said firm as well. To substantiate the same, he has also enclosed all those work experience certificates issued to various persons.

5. I have also perused the above said documents. From the said documents, this Court is able to see that the signature as well as emblem of the experience certificate issued to the second respondent are matching with the experience certificate issued to other persons as well. Therefore, in my considered view, the petitioner, having issued the experience certificate to the second respondent, cannot now say that the said experience certificate is a bogus one merely for the reason that they were unable to secure the purchase order from the first respondent.

6. Thus, in such view of the matter, the writ petition fails and the same is dismissed as devoid of any merit. Consequently, the order of status-quo already granted by this Court stands vacated. It is open to the first respondent to proceed further in accordance with law. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkm

To

1.The Superintending Engineer,
TANGEDCO,
Mettur Electricity Dist Circle,
Central Office, Mettur District, Salem District.

+1 cc to Mr.S.K.Raameshuwar, Advocate, Sr.No. 42911

+1 cc to Mr.T.Anbahagan, Advocate, Sr.No. 42324

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CSL/03.06.2019