

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

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THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.7004 of 2019
and
WMP.Nos.7727 & 7728 of 2019

P.Amarnath

...Petitioner

Vs.

1.The Managing Director
Tamil Nadu Civil Supplies Corporation
Head Office: No.12, Thambusamy Road,
Kilpauk, Chennai-600 010.

2.The Principal Secretary to Government
Co-operation, Food & Consumer Protection Department
Fort Saint George,
Chennai-600 009.

...Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent, pertaining to the conditions imposed in Sub-Clauses (f), (h) and (l) of Clause 3 of the E-Tender dated 12.03.2019 issued in NIT No.Com1/006275/2019 dated 15.02.2019, by the 1st respondent for supply of 50,000 MTs of S-30 Grade Sugar and quash the same and consequently, directing the 1st respondent to re-issue the tender without specification of the said sub-clauses as a pre-qualification criteria.

For Petitioner :

Mr.N.Ramesh

for Mr.R.Prasath

For Respondents

: Mr.Vijay Narayan,

Advocate General

assisted by

Mr.L.P.Shanmuga Sundaram

Special Government Pleader

for R1

Mr.E.Balamurugan,

Special Government Pleader

for R2

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COMMON ORDER

Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader takes notice for the first respondent. Mr.E.Balamurugan, learned Special Government Pleader takes notice for the second respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the tender notification dated 12.03.2019. Consequently, the petitioner seeks for a direction to the first respondent to re-issue the tender notification.

3. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

4. The petitioner is aggrieved against the three conditions stipulated in the tender notification dated 12.03.2019 viz., (i) The tenderer should have remitted EMD amount of Rs.1,00,00,000/- (Rupees One Crore Only) through off-line (not through portal) RTGS/NEFT as detailed in Clause 2(4) of Form 'A' of the e-tender. However, the details of RTGS/NEFT made should be uploaded in the portal, (ii) The tenderer should have an average annual turnover of not less than Rs.40 crores during the last 3 financial years (i.e. 2015-2016, 2016-2017 and 2017-2018). Turnover details should be supported by a copy of the Income and Expenditure, P&L Account, Balance Sheet and Tax Audit report duly certified by a Chartered Accountant and (iii) The tenderer should have supplied not less than 15,000 MTs of sugar/food commodities in single contract and three such contract should have been executed in any of the last 5 financial years i.e. 2013-2014, 2014-2015, 2015-2016, 2016-2017 and 2017-2018 to any Government/Quasi Government/any Government Institutions. Documentary evidence to that effect should be produced. In other words, the above Pre-qualification conditions prescribed by the Tender Inviting Authority, are questioned by the petitioner as illegal and improper.

5. Similar condition imposing the minimum period of three years experience as one of the conditions stipulated by the Tamil Nadu Civil Supplies Corporation in the tender dated 27.07.2018, was put to challenge before this Court in WP.Nos.21600 & 30503 of 2018 and this Court, by order dated 15.02.2019, rejected the said contention and dismissed those writ petitions, holding that prescribing qualifications criteria for the bidders is the exclusive right of the Tender Inviting Authority/owner, with which, this Court cannot interfere so long as such prescription is not opposed to public policy.

6. The learned Advocate General appearing for the first respondent submitted that the petitioner has not even participated in the tender and hence, he is not entitled to question the conditions imposed by the Tender Inviting Authority.

7. Thus, considering the fact that the issue involved in this case has already been considered and rejected by this Court in the above said decision, I find that this writ petition is not entertainable and consequently, it is liable to be rejected. Accordingly, this writ petition is dismissed, by following the earlier order passed by this Court in WP.Nos.21600 & 30503 of 2018 dated 15.02.2019. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/--

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director

Tamil Nadu Civil Supplies Corporation
Head Office : No.12, Thambusamy Road,
Kilpauk, Chennai-600 010.

2.The Principal Secretary to Government

Co-operation, Food & Consumer Protection Department
Fort Saint George,
Chennai-600 009.

+1cc to Mr. L.P.Shanmuga Sundaram, Advocate SR.No. 22946

+1 CC TO GOVERNMENT PLEADER SR.NO. 23213,23628

A.SK (27/03/2019)

W.P.No.7004 of 2019