

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Twenty Third day of October Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE P.D.AUDIKESSAVALU

WMP.Nos.23654, 26142 and 26103 of 2019

in WP.No.23785 of 2019

DIAMOND FOOTCARE UDYOG PVT. ... PETITIONER in WP No.23785 of 2019
LTD. REP. BY ITS DIRECTOR & WMP.23654/2019, & 1ST RESPONDENT
MR.RAMESH KUMAR IN WMP.26142, 26103/2019
GUPTA PLOT NO.345
HSIIDC FOORWEAR PARK
SECTOR 17 BAHADURGARDH DISTRICT JHAJJAR
HARYANA 124 507

Vs

1 TAMIL NADU TEXT BOOK AND [RESPONDENT in WP No.23785 of 2019
EDUCATIONAL SERVICES CORPORATION, &WMP.23654/2019, & PETITIONER IN
REP. BY ITS MANAGING DIRECTOR, WMP.26142/2019 & 2ND RESPONDENT
68, E.V.K. SAMPATH MAALIGAI, IN WMP.26103/2019]
D.P.I. CAMPUS, COLLEGE ROAD,
CHENNAI, TAMIL NADU 600 006.

2 M/S.XO FOOT WEAR PVT. LTD., [2 TO 11 RESPONDENTS IN
REP. BY ITS MANAGING DIRECTOR, WP.23785 & WMP.23654, 26142/2019]
A-122, MANGOLPURI, & 3 TO 12 RESPONDENTS IN
INDUSTRIAL AREA PHASE -II, WMP.26103/2019]
DELHI 110034.

3 M/S.INFINITY FOOTWEAR PVT. LTD
REP. BY ITS MANAGING DIRECTOR,
313/36- B MAIN ROAD, CHARA MANDI,
INDERLOK NEW DELHI 110015.

4 M/S.SHAMSONS INDUSTRIES,
REP. BY ITS MANAGING DIRECTOR,
R-9/5, RAJ NAGAR, GHAZIABAD 201001.

5 M/S.SHAMSONS POLYMERS PVT.LTD.,
REP. BY ITS MANAGING DIRECTOR, E-250,
THIRD FLOOR, GREATER KAILASH, NEW DELHI 600048.

6 M/S.B.N.G.FASHION GEAR PVT.
LTD., REP. BY ITS MANAGING DIRECTOR,
319- 320, SECTOR 17, FOORWEAR PARK HSIIDC,
BAHADURGARH, HARYANA 124507.

7 M/S.CHARANPAADUKA INDUSTRIES
PVT. LTD., REP. BY ITS MANAGING DIRECTOR,
11/371, IST FLOOR, SUNDERVIHAR,
OUTER RING ROAD, DELHI-83.

8 M/S.POWERTECH ELECTROINFRA PVT.LTD.,
REP. BY ITS MANAGING DIRECTOR,
NO.241, TAGORE PARK, DELHI 110009.

9 M/S.M.B.RUBBER PVT.LTD.,
REP. BY ITS MANAGING DIRECTOR,
195, GAGAN VIHAR, DELHI 110051.

10 M/S.H.B. RUBBER PVT. LTD.,
REP. BY ITS MANAGING DIRECTOR,
195, GAGAN VIHAR, DELHI 110051.

11 M/S.LIBERTY SHOES,
REP. BY ITS MANAGING DIRECTOR,
LIBERTY PURAM, 13TH MILESTONE
GT KARNAL ROAD, KUTAIL PO BASTARA,
KARNAL HARYANA.

12 M/S.LAWRESHWAR POLYMERS, [12TH RESPONDENT IN WP.23785/2019
REP. BY ITS MANAGING DIRECTOR, ,23654, 26142/2019 & PETITIONER
A-243 (A) ROAD NO.6, V.K.I. IN WMP.26103/2019]
AREA JAIPUR, RAJASTHAN- 302013.

Petitions praying that in the circumstances stated therein
and in the respective affidavits filed therewith the High Court
will be pleased to

(1) Pass a order or interim injunction Restraining the 1st
respondent from finalising or awarding the 3 contract pursuant to
the tender bearing reference RC.No.288/PUR-1/2019 floated by the
1st respondent for Delivery of Footwear (Velcro Sandal for Boys
and Girls) to the School Children in Tamil Nadu on Annual Rate
Contract Basis to any bidders, (in WMP.23654/2019);

(2) to Vacate the Interim Injunction passed by this Honble
Court in WMP No. 23654 of 2019 in WP No. 23785 of 2019 dated
14.08.2019 (in WMP.26142/2019) and

(3) To Vacate the Interim Order dated 14.08.2019 granted in WMP No. 23654 of 2019 in WP No.23785 of 2019 (in WMP.26103/2019) respectively pending WP.No.23785 of 2019.

Order : These petitions coming on this day for hearing upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of Heard Heard Mr.AR.L.Sundaresan, Learned Senior Counsel assisted by Mr.G.Rajkumar, Learned Counsel for the Petitioner, Mr. Vijay Narayan, Learned Advocate General assisted by Mr.C.Munusamy, Learned Special Government Pleader (Education) appearing for the First Respondent, Mr.T.N.C.Kaushick, Learned Counsel appearing for the Second Respondent, Mr.K.V.Sajeevkumar, Learned Counsel appearing for the Third Respondent, M/s.Giridhar & Sai, Learned Counsel appearing for the Fourth and Fifth Respondents, Mr.G.Masilamani, Learned Senior Counsel assisted by Mr.V.Kumaravelan, Learned Counsel appearing for the Seventh Respondent, Mr.R.Thiyagarajan, Learned Senior Counsel for Mr.V.R.Kamalanathan, Learned Counsel appearing for the Eighth Respondent, Mr.M.Palanimuthu, Learned Counsel appearing for the Ninth Respondent and Mr. P.S. Raman, Learned Senior Counsel for Mr.S.Thiruvengadam, Learned Counsel appearing for Tenth Respondent, Mr.V.Ayyadurai, Learned Senior Counsel for Mr.M.Baskar, Learned Counsel appearing for the Eleventh Respondent and Mr.Bharadwajarama subramaniam. R, Learned Counsel appearing for the Twelfth Respondent the Court made the following order:-

Heard Mr.AR.L.Sundaresan, Learned Senior Counsel assisted by Mr.G.Rajkumar, Learned Counsel for the Petitioner, Mr. Vijay Narayan, Learned Advocate General assisted by Mr.C.Munusamy, Learned Special Government Pleader (Education) appearing for the First Respondent, Mr.T.N.C.Kaushick, Learned Counsel appearing for the Second Respondent, Mr.K.V.Sajeevkumar, Learned Counsel appearing for the Third Respondent, M/s.Giridhar & Sai, Learned Counsel appearing for the Fourth and Fifth Respondents, Mr.G.Masilamani, Learned Senior Counsel assisted by Mr.V.Kumaravelan, Learned Counsel appearing for the Seventh Respondent, Mr.R.Thiyagarajan, Learned Senior Counsel for Mr.V.R.Kamalanathan, Learned Counsel appearing for the Eighth Respondent, Mr.M.Palanimuthu, Learned Counsel appearing for the Ninth Respondent and Mr. P.S. Raman, Learned Senior Counsel for Mr.S.Thiruvengadam, Learned Counsel appearing for Tenth Respondent, Mr.V.Ayyadurai, Learned Senior Counsel for Mr.M.Baskar, Learned Counsel appearing for the Eleventh Respondent and Mr.Bharadwajarama subramaniam. R, Learned Counsel appearing for the Twelfth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. Learned Advocate General appearing on behalf of the First Respondent submits that after examination of samples of footwear submitted by all the bidders, identical results have been received from the two laboratories to which they had been sent for quality test, except in the case of one bidder. It is further submitted that even in respect of that bidder, though the results of the various parameters in the two laboratories may have been the same, the difference of opinion in the recommendation may be attributable to their respective subjective satisfaction and in these circumstances, it would be appropriate that the ultimate decision to accept either of the opinions on the recommendation from the two laboratories may be left to the experts of the Technical Committee entrusted with the matter as per the prescribed procedure.

3. Having regard to the fact that the experts constituting the Technical Committee would be the most suitable persons to assess and take decision on the difference of opinion on the recommendation from the two laboratories in respect of the quality test of the samples from one of the bidders mentioned supra, that aspect of the matter is left to be decided by the said Technical Committee appointed by the First Respondent, especially when it is not an issue raised by the Petitioner in the Writ Petition. It is also made clear that no view is expressed by this Court on the correctness or otherwise of either of the results received from the two laboratories in that regard.

4. In view of the aforesaid subsequent developments, the interim order passed on 18.09.2019 is further modified to the effect that the First Respondent is at liberty to proceed further in the matter in accordance with law subject to the result of the Writ Petition, which shall be mentioned in the decisions taken.

5. The Miscellaneous Petitions are disposed on the aforesaid terms.

-sd/-
23/10/2019

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE MANAGING DIRECTOR,
TAMIL NADU TEXT BOOK AND EDUCATIONAL
SERVICES COR., 68, E.V.K.SAMPATH MAALIGAI,
D.P.I. CAMPUS, COLLEGE ROAD, CHENNAI,
TAMIL NADU 600 006.

C.C. to M/S.G.RAJKUMAR Advocate on payment of necessary charges

C.C. to MR.T.N.C.KAUSHICK, Advocate on payment of necessary charges

C.C. MR.K.V.SAJEEVKUMAR, Advocate on payment of necessary charges

C.C. to MR.V.KUMARAVELAN, Advocate on payment of necessary charges

C.C. to MR.JITENDER MEHTA, Advocate on payment of necessary charges

C.C. to MR.M.PALANIMUTHU, Advocate on payment of necessary charges

C.C. to MR.M.BASKAR Advocate on payment of necessary charges

C.C. to MR.R.S.DIWAAGAR, Advocate on payment of necessary charges

C.C. to V.R.KAMALANATHAN Advocate

C.C. to MR.C.MUNUSAMY, Advocate

The Government Advocate, High Court, Madras - 104.

Order

in

WMP.Nos.23654, 26142 and 26103 of 2019

in WP.No.23785 of 2019

Date :23/10/2019

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
KP(25/10/2019) (IT)