WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKESAVALU

W.P. No. 26620 of 2019
and
W.M.P. No. 25995 of 2019

C.Rengaraj ... Petitioner

-vs-

1.The Commissioner
Hindu Religious and Charitable Endowments Department,
Chennai.

2.The Joint Commissioner,
Arulmigu Subramaniaswamy Thirukovil,
Hindu Religious and Charitable Endowments Department,
Thiruthani, Thiruvallur District.

3.The Executive Officer,
Arulmigu Subramaniaswamy Thirukovil,
Hindu Religious and Charitable Endowments Department
Thiruthani, Thiruvallur District.

4.The Arulmigu Subramaniaswamy Thirukovil,
Represented by its Board of Trustees,
Thiruthani, Thiruvallur District.
... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Mandamus, directing the respondents to declare the petitioner as successful bidder in lieu of his lowest tender pursuance to the notification in Na.Ka.No.1862/2019/A5 dated 19.08.2019 for the labour contract for preparation of prasatham in the Arulmigu Subramania Swamy Thirukovil, Thiruthani and issue work order in petitioners favour within the period stipulated.

For Petitioner : Mr. Veerakathiravan, Senior Counsel
for Mr.Mohammed Ismail

For Respondents: Mr. M. Maharaja
Special Government Pleader (HR & CE)

O R D E R

Heard Mr. Veerakathiravan, Learned Senior Counsel assisted by Mr. Mohammed Ismail, Learned Counsel for the Petitioner and Mr. M. Maharaja, Learned Special Government

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

Pleader (HR & CE) appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had participated in the tender conducted on 19.08.2019 by the Second to Fourth Respondents (hereinafter referred to as 'the Temple' for brevity), for supply of labour for preparation of prasadham in that Temple. Apart from the Petitioner, three other persons had participated in that tender but they were disqualified for either failing to produce experience certificate or requisite certificate from the Food Safety and Standards Authority of India (FSSAI). As a consequence thereof, the tender of the Petitioner, was alone valid. However, the Temple did not award the contract to the Petitioner and instead, a proposal was sent to the concerned authority for granting permission for conducting re-tender. Aggrieved by the refusal of the Temple to award the contract to the Petitioner, this Writ Petition has been filed to declare the Petitioner as successful bidder in the tender and to issue work order, within a time frame to be fixed by this Court.

3. The Second Respondent has filed Counter-Affidavit contending that though the tender submitted by the Petitioner pursuant to the tender notification dated 19.08.2019 was the only valid tender, it was decided to conduct re-tender on account of the fact that the notice of the aforesaid tender had not been published in the vernacular dailies or newspapers, and had been sent only to the Temples under the Hindu Religious and Charitable Endowments Department (HR & CE), of the Government of Tamil Nadu.

4. The question that falls for consideration is whether the Temple is justified in not accepting the valid bid of the Petitioner pursuant to the tender conducted on 19.08.2019 and instead proceeding to conduct re-tender?

5. It has been held by the Hon'ble Supreme Court of India in Food Corporation of India -vs- M/s. Kamdhenu Cattle Feed Industries [(1993) 1 SCC 71], that no tenderer can claim any indefeasible right to have his tender accepted, but such power cannot be exercised arbitrarily and must depend for its validity on the existence of cogent reasons for such action. The reasons stated by the Temple for not accepting the valid bid of the Petitioner and proposing to conduct re-tender is on account of the fact that there has not been any competition inasmuch as the notice of tender had not been published in vernacular dailies or newspapers. Such valid reason assigned by the Temple cannot be said to be arbitrary as the intention is to procure the best price, while giving equal opportunity to all intending bidders to compete through wider publicity. Resultantly, the decision making process, which has not been shown to suffer from any infirmity, does not warrant any interference of this Court in exercise of its discretionary

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

powers under Article 226 of the Constitution of India. At the same time, it is made clear that while conducting re-tender, the Temple must ensure that there is wide publicity by publishing the notice of tender in vernacular dailies and newspapers, apart from complying with the relevant rules governing to conduct of tender in letter and spirit.

6. In the result, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

dm/vjt

To

1.The Commissioner
Hindu Religious and Charitable Endowments Department,
Chennai.

2.The Joint Commissioner,
Arulmigu Subramaniaswamy Thirukovil,
Hindu Religious and Charitable Endowments Department,
Thiruthani, Thiruvallur District.

3.The Executive Officer,
Arulmigu Subramaniaswamy Thirukovil,
Hindu Religious and Charitable Endowments Department,
Thiruthani, Thiruvallur District.

4.The Board of Trustees,
The Arulmigu Subramaniaswamy Thirukovil,
Thiruthani, Thiruvallur District.

+2cc to Mr. S.Suriya, Advocate, S.R.No.99251
+1cc to the Government Pleader, S.R.No. 100110

W.P. No. 26620 of 2019

BS(CO)
GN(09/01/2020)

https://hcservices.ecourts.gov.in/hcservices/