

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.Nos.3597, 3598, 3602, 3604, 3610, 3613 to 3615,
3641, 3643, 3650, 3651, 3654 & 3656 of 2019
and

C.M.P.No.21189 of 2019

W.A.No.3597 of 2019

B.Sambath

No.42/1, Ilango Salai,
Vanniya Teynampet,
Chennai - 600 018.

Vs

.... Appellant/Petitioner

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

... Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28366 of 2019 on the file of this Court.

W.A.No.3598 of 2019

K.B.Alagesan

No.4/54, Manthoppu 1st Street,
Guindy, Chennai - 600 032.

Vs

.... Appellant/Petitioner

1.State of Tamil Nadu,
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

... Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28368 of 2019 on the file of this Court.

W.A.No.3602 of 2019

K.E.Mohan Raj,
No.466, Arignar Anna Street,
Thiruvengatapuram,
Ponneri,
Tiruvallur District - 601 204.

... Appellant/Petitioner

Vs

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

... Respondents/Respondent

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28355 of 2019 on the file of this Court.

W.A.No.3604 of 2019

V.Chandrasekaran,
No.H-31F, 41st Street,
Ashok Nagar,
Chennai - 600 083.

... Appellant/Petitioner

Vs

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

... Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28354 of 2019 on the file of this Court.

W.A.No.3610 of 2019

S.Natarajan,
No.11/5, Jeevarathinam Street,
Vinayagapuram, Ambattur,
Chennai - 600 053.

... Appellant/Petitioner

Vs

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

... Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28358 of 2019 on the file of this Court.

W.A.No.3613 of 2019

R.Kathirvel,
No.165, Vivekanandar Street,
Vijaya Lakshmipuram,
Chennai - 600 053.

... Appellant/Petitioner

Vs

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

... Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28359 of 2019 on the file of this Court.

W.A.No.3614 of 2019

D.Gajendran,
No.30, Lake View Street,
Nerkundram,
Chennai - 600 107.

... Appellant/Petitioner

Vs

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Fort st. George, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006. ... Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28351 of 2019 on the file of this Court.

W.A.No.3615 of 2019

R.Boopathy,
No.47/42, Ilango Salai,
Vanniyar Teynampet,
Chennai - 600 018. ... Appellant

Vs

1.State of Tamil Nadu
Rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006. ... Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28357 of 2019 on the file of this Court.

W.A.No.3641 of 2019

Sri Saravana Enterprises,
New No.63, Old No.35,
SIR Thyagaraya Road,
Chennai - 600 017.
Rep.by its Proprietor,
S.Saravanan

... Appellant/Petitioner

Vs

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

... Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28345 of 2019 on the file of this Court.

W.A.No.3643 of 2019

S.Ganesan,
No.24/3A, South Park Street,
Vekatapuram, Ambattur,
Chennai - 600 053.

... Appellant/Petitioner

Vs

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

... Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28344 of 2019 on the file of this Court.

W.A.No.3650 of 2019

Sri Iyyappan Enterprises,
No.25/10, Aroshree Dinalaya Apartment,
Vaithyaraman Street,
T.Nagar, Chennai - 600 017.
Rep. by its Proprietor,
S.Govindaraj.

... Appellant/Petitioner

Vs

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

... Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28360 of 2019 on the file of this Court.

W.A.No.3651 of 2019

M.Rajaprabhu,
No.29/15B, Railway Colony,
2nd Street, Aminjikarai,
Chennai - 600 029.

... Appellant/Petitioner

Vs

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Fort St. George, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006. Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28353 of 2019 on the file of this Court.

W.A.No.3654 of 2019

M.Sampath Kumar,
No.57, Sengazhani Amman Koil Street,
Puzhuthivakkam,
Chennai - 600 091. Appellant/Petitioner

Vs

1.State of Tamil Nadu
Rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006. Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28362 of 2019 on the file of this Court.

W.A.No.3656 of 2019

V.Balaraman,
No.44/51, Elango Salai,
Vanniya Teynampet,
Chennai - 600 018.

... Appellant/Petitioner

Vs

1.State of Tamil Nadu
rep. by its Secretary to Government,
Highways & Minor Ports Department,
Secretariat, Fort St. George, Chennai - 600 009.

2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

.... Respondents/Respondents

PRAYER : Appeal against the order dated 01.10.2019 made in
W.P.No.28352 of 2019 on the file of this Court.

WP No.28366 of 2019

Calling for records relating to the Government Order in GO.(Ms)
No. 162, Highways and Minor Ports (HN1) Department dated
01.10.2012 on the file of the 1st Respondent and the subsequent
Tender notice in Tender Notice No.20/2019-2020 / HDO, dated
12.09.2019 on the file of the 3rd Respondent quash the same and
direct the Respondents to issue fresh tender Notifications to
participate in the tender by the Petitioner.

WP No.28368 of 2019

Calling for records relating to the Government Order in GO.(Ms)
No. 162, Highways and Minor Ports (HN1) Department dated
01.10.2012 on the file of the 1st Respondent and the subsequent
Tender notice in Tender Notice No.21/2019-2020 / HDO, dated
13.09.2019 on the file of the 3rd Respondent quash the same and
direct the Respondents to issue fresh tender Notifications to
participate in the tender by the Petitioner.

WP No.28355 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent tender notice in Tender Notice No 12/2019-2020 / HDO, dated 30.08.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

WP No.28354 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent tender notice in Tender Notice No 23/2019-2020 / HDO, dated 17.09.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

WP No.28358 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent tender notice in Tender Notice No 12/2019-2020 / HDO, dated 30.08.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

WP No.28359 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent Tender notice in Tender Notice No.13/2019-2020 / HDO, dated 31.08.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

WP No.28351 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent tender notice in Tender Notice No 11/2019-2020 / HDO, dated 29.08.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to

participate in the tender by the Petitioner.

WP No.28357 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent tender notice in Tender Notice No 23/2019-2020 / HDO, dated 17.09.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

WP No.28345 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent tender notice in Tender Notice No 22/2019-2020 / HDO, dated 14.09.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

WP No.28344 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent tender notice in Tender Notice No 10/2019-2020 / HDO, dated 28.08.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

WP No.28360 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent tender notice in Tender Notice No 24/2019-2020 / HDO, dated 18.09.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

WP No.28353 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent tender notice in Tender Notice No 11/2019-2020 / HDO, dated

29.08.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

WP No.28362 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent Tender notice in Tender Notice No.15/2019-2020 / HDO, dated 05.09.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

WP No.28352 of 2019

Calling for records relating to the Government Order in GO.(Ms) No. 162, Highways and Minor Ports (HN1) Department dated 01.10.2012 on the file of the 1st Respondent and the subsequent Tender notice in Tender Notice No.13/2019-2020 / HDO, dated 31.08.2019 on the file of the 3rd Respondent quash the same and direct the Respondents to issue fresh tender Notifications to participate in the tender by the Petitioner.

For Appellant in all appeals : Mr.S.Doraiswamy

For Respondents in all appeals : Mr.J.Pothiraj,
Special Government Pleader.

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeals have been preferred by the contractors challenging G.O.Ms.No.162, Highways & Minor Ports (HN1) Department, dated 01.10.2012 by which the package system has been reintroduced for easy execution.

2.Heard Mr.S.Doraiswamy, learned counsel appearing on behalf of the appellants and Mr.J.Pothiraj, learned Special Government Pleader appearing on behalf of the respondents.

3.Mr.S.Doraiswamy, learned counsel appearing on behalf of the appellants would submit that because of G.O.Ms.No.162, Highways & Minor Ports (HN1) Department, dated 01.10.2012, small contractors are suffering without any work.

4.Mr.J.Pothiraj, learned Special Government Pleader appearing on behalf of the respondents would point out by mentioning paragraph 4 of the said G.O., that the package system has been introduced only for the work which is valued more than Rs.5 crores. The very purpose of reintroducing the package system is only to see that qualified contractors who have manpower and capacity are given a chance to execute the work at the earliest which is also in the interest of the public and there is no prohibition for the appellants to take part in the tender according to their status as clause I contractor etc., Therefore, the grievances expressed by the appellants have already been taken note of in the G.O., itself. Moreover, this Court has already dealt with this very same issue in detail in W.A.No.3302 of 2019 and dismissed the appeal on 04.11.2019.

5.Since the learned counsel appearing for the appellants would submit that the appellants are suffering without any work, they are at liberty to give a representation with details of their sufferings and their eligibility to take part in the tender process. On such receipt of the representation, the respondents are directed to consider the same within a period of four weeks from the date of receipt of such representation.

6.Since this Court has already dismissed W.A.No.3302 of 2019 on 04.11.2019, which dealt with the very same issue, these Writ Appeals are also dismissed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
1.Secretary to Government,
State of Tamil Nadu,
Highways & Minor Ports Department,
Secretariat, Chennai - 600 009.

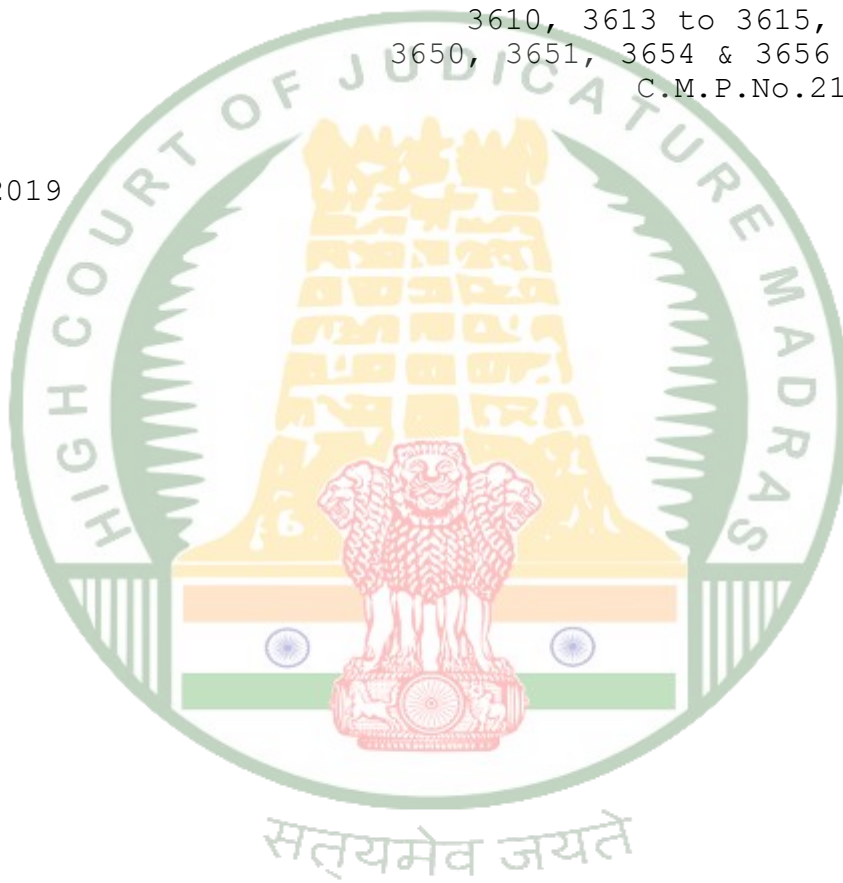
2.The Chief Engineer (General),
Construction and Maintenance,
Highways Department, Guindy,
Chennai - 600 025.

3.The Superintending Engineer,
Highways (C&M),
Chennai Circle, No.299,
Anna Salai, Teynampet,
Chennai - 600 006.

+14ccs to Mr.S.Doraiswamy, Advocate sr.91228

W.A.No.3597, 3598, 3602, 3604,
3610, 3613 to 3615, 3641, 3643,
3650, 3651, 3654 & 3656 of 2019 and
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