



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30.12.2019

Coram

THE HON'BLE MR.JUSTICE **P.VELMURUGAN**

Writ Petition (MD)No.27400 of 2019

AND

W.M.P(MD)No. 23662 of 2019

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M/S.Excel Engineering Enterprises,
Represented by its Proprietor,
Mr.Kumaresan

. . Petitioner

-Vs-

The Superintending Engineer,
PWD, WRD,
Tamilraparani Basin Circle,
Tirunelveli - 627 002.

. . Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records pertaining to the Tender Notice issued by the Respondent in Bid Invitation No: 07^{SE} /TBC/2019-2010, dated 27.11.2019 and to quash the same and to direct the respondent to issue fresh tender notification by following due process of law.

For petitioner
For respondent

:Mr.M.Sathish Kumar
:Mrs.J.Padmavathi Devi,
Special Government Pleader.

ORDER

The petitioner has filed this writ petition to quash the tender notice issued by the respondent in Bid Invitation No: 07^{SE} /TBC/2019-2010, dated 27.11.2019 and to direct the respondent to issue fresh tender notification by following due process of law.

2.According to the petitioner, as per the letter issued by the Superintending Engineer, PWD - WRD, Vellore, dated 04.05.2018, he is a registered Class- I State Level contractor and the period of licence was extended for the year 2018- 2019 throughout the State of Tamil Nadu. The petitioner Company has also executed several contract works for PWD and other Departments successfully. Thus, the petitioner company has got the pre-qualification to participate in the present tender notice issued.

3.The learned counsel for petitioner would submit that the impugned tender notice was issued on 27.11.2019. As per the condition of the tender, the petitioner Company has to apply for the tender within 30 days. According to the learned counsel for the petitioner, the tender notification was published in a vernacular news paper viz., Dhina Thanthi, on 28.11.2019. This notice



categorically states that the Bid documents will be available in website <http://www.tenders.tn.gov.in> from 04.12.2019 to 02.01.2020 and final date of submission of bid documents is 03.01.2020.

4.Now, the main grievance of the petitioner is that from the date of paper publication i.e., 28.11.2019 to till date i.e., the date of filing of this writ petition (27.12.2019), in the above said website, the bid documents have not been uploaded in the above web portal and only the tender notice is available. According to him, this is a gross violation of Rule 16(1) of the Tamil Nadu Transparency in Tender Rules, 2000.

5.The learned counsel for the petitioner would further submit that each and every tender notification must mandatorily comply with the provisions of the Rules specified in the Tamil Nadu Transparency in Tender Rules, 2000, which reads as follows:

"20.Minimum time for submission of tenders:

(1) The Tender Inviting Authority shall ensure that adequate time is provided for the submission of tenders and a minimum time is allowed between date of publication of the Notice Inviting Tenders in the relevant Tender Bulletin or in the newspapers whichever is later and the last date for submission of tenders. This minimum period shall be as follows:

(a) for tenders upto rupees two crores in value, fifteen days; and

(b) for tenders in excess of rupees two crores in value, thirty days."

6.The learned counsel for the petitioner would also submit that since only the tender notification is available in the website and the required documents have not been uploaded by the concerned authority, the petitioner was not in a position to upload the tender. Hence, he request this Court either to quash the impugned tender notification or to extend the time for submission of filled in tenders.

7.The learned Special Government Pleader appearing for the respondent would submit that though the tender notification is available in the website from 04.12.2019 itself, all the required documents were uploaded in the website from 24.12.2019. Therefore, till now, the Bid time is available upto 02.01.2020 and the petitioner can very well apply today itself.

8.Heard the learned counsel on either side and perused the documents carefully.

9.The contention of the learned counsel for the petitioner is
<https://hcservices.ecourts.gov.in/hcservices/>



that as per the notification in Dhina Thanthi, dated 28.11.2019, the tender notification has been available in the website <http://www.tenders.tn.gov.in> . Then the parties are expected to participate in the tender applying from 04.12.2019 to 02.01.2020. The next contention raised by the learned counsel for the petitioner is that the required documents were not uploaded in the website till 26.12.2019. Hence, the petitioner was not in a position to access all the required documents till 26.12.2019 and he was in a position to access only those documents through website only from 27.12.2019. Therefore, he required further time to make a field work and also to apply.

10.This contention of the learned counsel for the petitioner is not acceptable, since the petitioner is not a new one to this field and he is already a schedule No.1 contractor in the department and he knows all the documents also. In the affidavit filed in support of this writ petition, it is stated that even till date, i.e date of filing of the present writ petition, the petitioner was not in a position to access the required documents. This fact is not correct because of the admission now made by the learned counsel for the petitioner that from 26.12.2019 onwards, the petitioner was only able to access all the documents. Therefore, in these circumstances, this Court is of the view that the last date of submission of tender is still available till 02.01.2020 and the petitioner can very well apply today itself.

11.Considering the above facts and circumstances of the case, this Court is of the view that there is no merit in this Writ Petition. Hence, this Writ Petition cannot be entertained. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS I)

// True Copy //

Sub Assistant Registrar(CS)

To

The Superintending Engineer,
PWD, WRD,
Tampiraparani Basin Circle,
Tirunelveli - 627 002.



+2 CC to M/s.M.SATHISKUMAR, Advocate (SR-106531[F] dated 30/12/2019)

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W.M.P (MD)No. 23662 of 2109

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KK/SAR/30.12.2019/4P-5C/