

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2020

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.8383 of 2020

and

W.M.P.No.10071 of 2020

M.Premkumar

... Petitioner

-Vs-

The Chief Executive Officer,
NLC Tamil Nadu Power Limited,
Harbour Estate, Tuticorin 628 004,
Tamil Nadu.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying Writ of mandamus to direct the respondent from taking any coercive measures of forfeiture of EMD amount of Rs.10,00,000/- deposited against the tender and also banning our Company for two years from participating in any tenders of NTPL/CLCIL.

For Petitioner : Mr.Raj Thilak

For Respondents : Mr.N.Nithianandam

सत्यमेव जयते
O R D E R

This matter is taken up for hearing through Video-Conferencing mode.

2.This writ petition is filed seeking for a mandamus to direct the respondent from taking any coercive measures of forfeiture of EMD amount of Rs.10,00,000/- deposited against the tender and also banning the Company for two years from participating in any tenders of NTPL/CLCIL.

3.In the tender floated by the respondents dated 17.12.2020, the petitioner-Company participated and became successful bidder

by paying EMD of Rs.10 Lakhs. It is further stated that the petitioner-Factory has been shutdown from the production since 23.03.2020 due to COVID-19 pandemic situation and therefore, they could not carry out the contract. It is further stated that consequently, the petitioner sent a representation to the respondents on 12.05.2020 to relieve them from the tender bid and to return the EMD of Rs.10 Lakhs. It is seen that the respondents sent two communications dated 19.05.2020 and 25.05.2020 and informed the petitioner that as per the tender conditions withdrawal of offer/modification of bid conditions would result in forfeiture of EMD, apart from banning the petitioner from participating in any tender. By stating so, the respondents informed the petitioner to withdraw their letter dated 12.05.2020 unconditionally and honour the bid submitted by them in toto. It is seen that the petitioner again sent a representation on 26.05.2020, raising the very same contention. Under such circumstances, the present writ petition is filed before this Court with the relief as stated supra.

4. Upon perusing the materials placed before this Court and hearing the learned counsel appearing for both parties, it is evident that though the respondent has informed the petitioner through communication dated 19.05.2020 and 25.05.2020 that as per the terms and conditions, forfeiture of EMD would result in the case of withdrawal of offer, so far no such order is passed by the respondent. Therefore, it is for the respondent to pass appropriate orders as per the terms of the tender conditions and communicate the same to the petitioner so as to enable them to challenge the same in a manner known to law before appropriate forum.

5. Accordingly, this Writ Petition is disposed of by granting liberty to the respondent to pass appropriate orders and communicate the same to the petitioner within a period of four weeks from the date of receipt of a copy of this order. In case, if any adverse order is passed against the petitioner, it is open to them to challenge the same in the manner known to law before appropriate forum. No costs. The connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

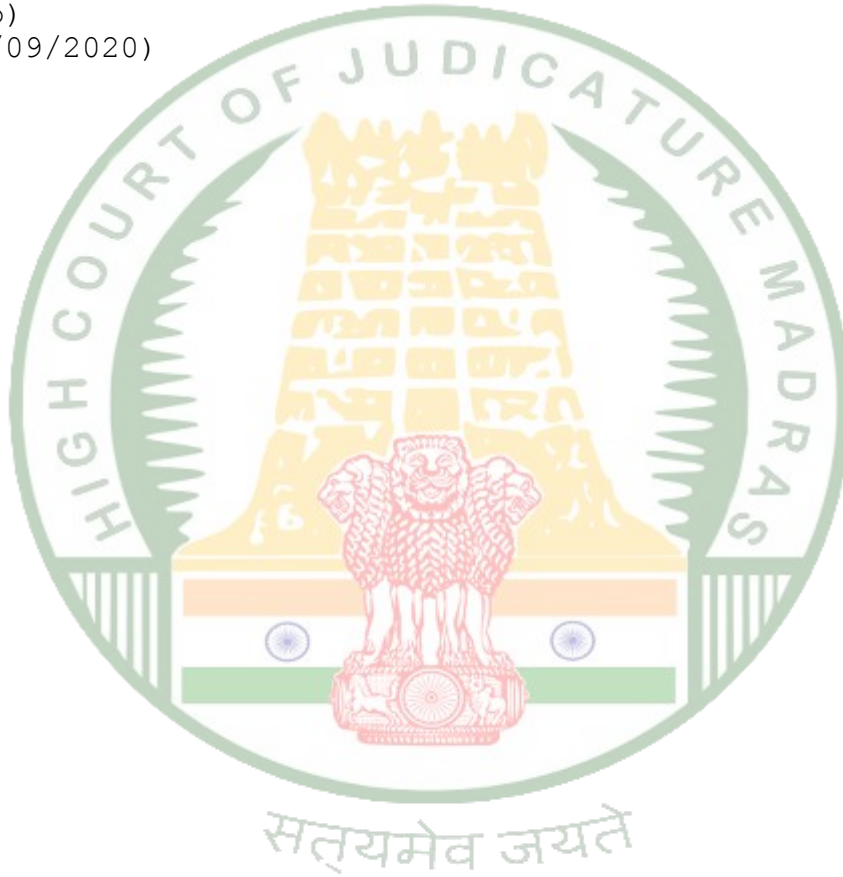
To

The Chief Executive Officer,
NLC Tamil Nadu Power Limited,
Harbour Estate, Tuticorin 628 004,
Tamil Nadu.

+lcc to Mr.N.Nithianandam, Advocate, Sr.No.28893

W.P.No.8383 of 2020

vsn ii (co)
rr ii (16/09/2020)



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