

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.9186 of 2020 &
WMP.Nos.11205 and 11204 of 2020

Sri Lakshmi Construction
represented by its Proprietor
V. Munikrishnan
Old No.86/5, New No.153, Palla Street,
Irungal Village, Sengadu Post,
Cheyyar Taluk,
Thiruvannamalai District ... Petitioner

Vs.

1. The District Collector (Development)
Thiruvannamalai,
Thiruvannamalai District.
2. The Commissioner,
Thellar Panchayat Union,
Vanthavasi Taluk,
Thiruvannamalai District.
3. The Block Development Officer,
Thellar,
Vanthavasi Taluk,
Thiruvannamalai District. ... Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records, relating to the short term tender notification of the 2nd respondent proceedings in Na.Ka.Va.A3/1941/2020 dated 26.06.2020 and quash the same and consequently direct the respondents to issue fresh tender notification in accordance with law.

For Petitioner : Mr.E.Sathyaraj
For Respondents: Mr.E. Balamurugan,
Spl. Govt. Pleader

O R D E R

This writ petition has been filed challenging the tender notification issued by the 2nd respondent in the month of June 2020.

2. The grievance of the petitioner is that the respondents have intentionally published the tender notification belatedly and the petitioner came to know about the notification only on 4.7.2020 and the last date of receiving the application was 7.7.2020.

3. According to the petitioner, the same is in violation of Tamilnadu Transparency in Tender Rules, 2000.

4. Learned Special Govt. Pleader, appearing on behalf of the respondents submitted that there were three minor works that were involved in the tender and the tender was issued in favour of the successful bidder and work order was also issued on 9.7.2020.

5. It was further submitted that the work is halfway through.

6. Learned counsel for the petitioner submitted that every time, the respondents are intentionally violating the Tamilnadu Transparency in Tender Rules and in particular, Rule 20 and the tender is informed only a day prior to the last date of submission of application.

7. Learned counsel further brought to the notice that even on earlier occasions, the respondents have adopted the very same tactics and the petitioner was forced to file W.P.No.7358 of 2020 and by the time the writ petition was taken up for hearing, the work order was issued and therefore, the Writ Petition became infructuous. Even in the present case, the subsequent event has effectively made the relief sought for in the writ petition, infructuous.

8. Learned counsel for the petitioner further submitted that taking advantage of the COVID conditions, the respondents are repeatedly adopting this attitude and the tender is being given only to some fixed bidders and all the others are virtually prevented from participating in the tender. Therefore, the learned counsel wanted this court to make sure that such tactics are not be adopted in future.

9. This Court has carefully considered the submissions made on either side and the materials available on record.

10. It is seen from the submissions made by the learned Special Govt. Pleader that the relief claimed by the petitioner has almost become infructuous, since the work order has already been issued and the work is halfway through. It will be an academic exercise to consider the writ petition on merits. However, as rightly contended by the learned counsel for the petitioner, this trend should not be allowed to be continued

and the entire tender process must not become a farce. It is important that all the bidders interested should be allowed to participate in the tender and the Tamilnadu Transparency in Tender Rules 2000 must be followed in letter and spirit.

11. Rule 20 of the said Rules clearly contemplates the minimum time for submission of tender and if the same is not satisfied, the very notification itself becomes bad in the eye of law.

12. This Court could have gone into the issue even in the present writ petition, but however, the successful bidder has to be put on notice and by the time the case comes up for hearing, the work itself will be over. Therefore this Court consciously do not want to undertake such a wasteful exercise.

13. This Court wants to make it clear that the tender notification issued by the respondents should mandatorily comply with Rule 20 of the Tamilnadu Transparency in Tender Rules 2000 in future.

14. If this Court encounters another situation like the present one, where Rule 20 is not followed, this Court will be constrained to interfere with the very tender notification itself. This Court had made it clear even in the earlier order passed in W.P.No.7358 of 2020, dated 2.6.2020 and it is again reiterated in this writ petition also. The respondents are directed to keep this in mind whenever they resort to issuing tender notification in future.

15. This writ petition is disposed of accordingly. No costs. Consequently, the connected WMP.Nos.11204 & 11205 of 2020 are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

1. The District Collector (Development)
Thiruvannamalai,
Thiruvannamalai District.

2. The Commissioner,
Thellar Panchayat Union,
Vanthavasi Taluk,
Thiruvannamalai District.

3. The Block Development Officer,
Thellar,
Vanthavasi Taluk,
Thiruvannamalai District.

W.P.No.9186 of 2020 &
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RLP
A.SK (24/09/2020)



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