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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.7604 and 7606 of 2020

and

W.M.P.(MD)Nos.7098 to 7103 of 2020

S.S.Janarthanan

..Petitioner in both petitions

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary to Government,
Fort St.George, Secretariate, Chennai.

2.The Superintending Engineer,
WRO/PWD projects Circle, Tirunelveli-2.

3.The Executive Engineer,
PWD/WRO, Special Project Division,
Tirunelveli-11.

4.The Assistant Director,
Mines and Minerals Department,
Tirunelveli District.

5.R.S.Murugan

..Respondents in both petitions

COMMON PRAYER: Writ petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records in connection with the impugned tender dated 25.02.2020, quash the same and consequentially direct the respondents 1 to 4 to permit the petitioner to remove the remaining 1,00,233.4 and 37,699.145, respectively cubic meters of materials as per the agreement executed by the second respondent, within such time limit that may be fixed by this Court.

For Petitioner : Mr.Ajmal Khan
Senior Counsel
for Mr.Niranjana S.Kumar

For R1 to R4s : Mr.K.Chellapandian,
Additional Advocate General,
assisted by Mr.M.Rajarajan,
Government Advocate.



COMMON ORDER

Heard Mr.Ajmal Khan, learned Senior Counsel appearing for the petitioner and Mr.K.Chellapandian, learned Additional Advocate General assisted by Mr.M.Rajarajan, learned Government Advocate for the official respondents.

2. What is under challenge in these writ petitions are the tender notifications calling for tenders for removal for blasted rocks.

3. The learned Senior Counsel appearing for the petitioner states that the petitioner had already been awarded with tenders on the previous occasion and if the impugned tender process is allowed to go on, he will be prejudiced and his rights will be affected.

4. The learned Additional Advocate General appearing for the official respondents had submitted on the last occasion that the petitioner's rights will not be affected.

5. This Court called upon the learned Additional Advocate General to direct the respondent concerned to file an affidavit in this regard. Accordingly, today when the matter was taken up for hearing, the second respondent has filed an affidavit. The said affidavit reads as under:-

"i. It is submitted that Thiru R.Vishnuraj and Thiru V.Jeyachandran the principals of the Petitioner herein were the successful tenderers to remove the quantity of excavated hard granite stone in Stage I and II from LS 3000 m to 4200 m and 4200 m to 4800 m, respectively of Thamirabarani, Karumeniyar and Nambiyar River Linking project as per the tender notification issued by the Executive Engineer, Public Works Department / WRD, Special Project Division, Tirunelveli in 2EE/2015-16/F5/dt 16.02.2016. Though as per the agreement condition, a time of three months was given to complete the work of removing 190468.07 and 67879.873 cubic meters excavated upto the year 2016, the principals of petitioner have removed only 38% and 65% of the quantity respectively upto 6/2020. The petitioner has sought for further time to remove the same by remitting the requisite seigniorage fees. The same is being dealt separately by the Department as per the terms and conditions of the said agreements.

ii. The tender notification challenged by the petitioner issued in 1SE/PC/TNY/2019-2020 dated 26.02.2020 and published on 26.02.2020 does not relate to



the quantity covered in the tender notification dated 16.02.2016 and the work and quantity covered in the present tender is in no way connected with the works."

I am therefore, of the view that the petitioner's grievance no longer survives for any adjudication further.

6. The learned Senior Counsel states that a direction may be given for expediting the petitioner's request for extension of time.

7. The learned Additional Advocate General, on instructions, states that the application seeking extension of time filed by the petitioner will be disposed of in accordance with law within a period of four weeks. Ofcourse, he added that the petitioner may have to pay seigniorage fee and other statutory dues for removal of blasted rocks from the site in question.

8. Recording the said submission made by the learned Additional Advocate General and the affidavit filed by the second respondent, these writ petitions are disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary to Government,
Fort St.George, Secretariate, Chennai.

2.The Superintending Engineer,
WRO/PWD projects Circle,
Tirunelveli-2.



3.The Executive Engineer,
PWD/WRO, Special Project Division,
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4.The Assistant Director,
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Tirunelveli District.

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