



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2020

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 9726 of 2020 and

W.M.P. (MD) Nos. 8734 & 8735 of 2020

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M/s. Dee Pee CHEM Industries,
Works Plot No.G-1407,
Almighty Gate, GIDC-Meloda,
Rajkot, Gujarat (India),
Rep. through its authorised signatory,
E.Balaji.

... Petitioner

Vs.

1. The Joint Director of Agriculture,
Department of Agriculture,
Pudukottai,
Pudukottai District.

2. ICMC Corporation Ltd.,
No.1/3, Industrial Estate,
Ariyamangalam,
Trichy - 10.

3. The Director of Agriculture,
Chennai.
(R-3 is *suo motu* impleaded vide order 27.08.2020)

4. The Secretary to Government,
Department of Agriculture,
Fort St. George, Chennai.
(R-4 is *suo motu* impleaded vide order dated 21.09.2020)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Clause 3(a)(ii)(d) in tender notification tender No.C4-4749/2020 dated Nil issued by the first respondent and quash the same and consequently direct the first respondent to permit the petitioner company to participate in the tender process to be held on 20.08.2020 or on any other future date.

For Petitioner

:

Mr.R.Vijayakumar



For R-1,R-3&R-4

:

Mr.K.Chellapandian,
Additional Advocate General,
assisted by,
Mr.M.Rajarajan,
Additional Government Pleader.

For R-2

:

Mr.J.James

O R D E R

Heard, Shri.R.Vijayakumar, learned counsel appearing for the petitioner and Shri.K.Chellapandian, learned Additional Advocate General, assisted by Shri.M.Rajarajan, learned Additional Government Pleader appearing for respondents 1,3 and 4 and Mr.J.James, learned counsel appearing for the second respondent.

2. The Joint Director of Agriculture, Pudukkottai, issued the impugned tender notification inviting tenders for supply of raw material for the production of Micro Nutrient Mixtures and printed polythene covers for packing during 2020-21 to the Department of Agriculture.

3. The said notification has been put to challenge in this writ petition. The writ petitioner is a company engaged in manufacture of Micro Nutrients. It is having its factory in Gujarat. The case of the petitioner is that in view of Clause 3(a)(ii)(d) of the tender notification, the second respondent has been left in the field as the sole tenderer. The petitioner would attack the said clause as having been tailor-made for the benefit of the second respondent.

4. Certain allegations have been made against the second respondent and the same have been strongly denied by the second respondent in their counter affidavit. I am of the view that for the disposal of this writ petition, it is not necessary to go into those allegations.

5. I called upon the learned Additional Advocate General to get instructions from the Secretary to Government, Department of Agriculture, Chennai, as to whether in the future tender notifications to be issued by the Agricultural Department, such restrictive clauses will be retained.

6. The Secretary to Government through the learned Additional Advocate General fairly informed that even though they would leave the matter entirely to this Court, in future tender notifications, such restrictive clauses will not be incorporated. The issue will be revisited and the tender clauses will be drafted so as to encourage healthy competition. He made a further statement that if the technical evaluation stage leaves only a single tenderer, they would



definitely go for fresh tender process. Since such a fair and firm statement has been made by the Government through the learned Additional Advocate General, recording the same, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

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 Joint Director of Agriculture,
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Pudukottai,
Pudukottai District.
2. ICMC Corporation Ltd.,
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Trichy - 10.
3. The Director of Agriculture,
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4. The Secretary to Government,
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+1 CC to M/s.GP (SR-17975[F] dated 24/09/2020)

W.P. (MD) No. 9726 of 2020
22.09.2020

SCR(CO)

AP(05/10/2020) 3P 6C