



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10933 of 2020

and

WMP(MD)No.9594. 9595 and 9596 of 2020

M/s. Priyam Industries and Engineering Pvt. Ltd.,
Reg. Off.No.625, Surya Complex,
II Floor, Anna Salai,
Chennai - 600 006.

... Petitioner

Vs.

1.The Special Officer and Commissioner of
Tiruchirapalli City Corporation,
Tiruchirapalli City Corporation,
Bharathidasan Road, Cantonment,
Tiruchirapalli.

2.Tender Scrutiny Committee,
Rep by its member City Engineer,
Tiruchirapalli City Corporation,
Bharathidasan Road, Cantonment,
Tiruchirapalli.

3.Encon Engineers,
Shop No.3, VRK Complex,
First Floor, Marudhamalai Road,
Vadavalli, Coimbatore - 641 041.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the minutes of the Tender Scrutiny Committee made in E5/643/2019/main dated 28.08.2020 and quash the same in so far as Clause 1 (ii) is concerned wherein the petitioner's tender has been held to be Not Eligible and consequently direct the respondents 1 & 2 to hold the petitioner is qualified in the technical bid and permit the petitioner to herein to participate in the price bid to be convened on 03.09.2020 or on any other date as this Court may deem fit and proper with reference to the T.No.45/2020-2021 (SJ.01) dated 12.06.2020 is concerned.



For Petitioner : Mr.Silambanan, Senior Counsel
For M/s.Kaavya Silambannan Associates

For R1 & R2 : Mr.N.S.Karthikeyan

For R3 : Dispensed with

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O R D E R

Heard the learned senior counsel appearing for the petitioner and the learned standing counsel appearing for the respondents 1 and 2. Considering the nature of order that may be passed in the writ petition, notice to the third respondent is dispensed with.

2.The first respondent/corporation had issued a tender notification inviting applications from interested parties for supply and delivery of 100 numbers of battery operated garbage vehicles. The tender notification was published on 12.06.2020. The last date for submission of tender was 15.07.2020. The petitioner states that they had submitted the online application within time. They had also taken EMD for a sum of Rs.4,40,000/-. The petitioner is aggrieved that their tender was incorrectly rejected on the ground that EMD was not submitted offline.

3.The learned senior counsel reiterated all the contentions set out in support of the writ petition. He submits that they submitted the EMD offline and that the reasons given by the respondent/corporation is incorrect.

4.I need not go into the factual correctness of this contention raised by the learned senior counsel for the simple reason that though as many as seven persons had offered their tenders, six tenders were rejected. The field is left with only one player.

5.I am of the view that the very purpose of floating a tender has been defeated. Only if there is competition, the corporation would have obtained the best possible price. Since the third respondent is the sole participant in the price bid stage, the respondents 1 and 2 will have to necessarily go for a fresh tender. It has been held time and again that if after technical scrutiny, the field is left with only one player, the tender inviting authority in normal circumstance will have to go for fresh tender. In this case, I find that the reasons for rejection are purely on technical grounds. It does not go to the root of the matter. Therefore, without going into the merits of the matter, I direct the respondents 1 and 2 to issue fresh a tender notification. The third respondent cannot have any grievance. The rights of the third respondent are yet to crystallize. The third respondent cannot contend by the any stretch of imagination that their rights have been affected.



6. In this view of the matter, the writ petition is disposed of by directing the respondents 1 and 2 to go for fresh tender notification. I make it clear that all the contentions of the writ petitioner have been left open.

7. At this stage, the learned senior counsel appearing for the writ petitioner submitted that this kind of a situation can very well be avoided, if the tender inviting authority instead of insisting on physical furnishing of EMD can rather open an account in which the intending tenderers can straightaway remit the EMD. I find the said suggestion to be quite appealing. The first respondent will take note of the this suggestion in all their future tender processes. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

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 Special Officer and Commissioner of
Tiruchirapalli City Corporation,
Tiruchirapalli City Corporation,
Bharathidasan Road, Cantonment,
Tiruchirapalli.

2. Tender Scrutiny Committee,
Rep by its member City Engineer,
Tiruchirapalli City Corporation,
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+1 CC to M/s.S. KARTHIK, Advocate (SR-15893[F] dated 04/09/2020)

W.P. (MD)No.10933 of 2020

03.09.2020

NR (15.09.2020) 3P 4C

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