



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2020

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THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P. (MD)No.12387 of 2020

and W.M.P. (MD)Nos.10592 & 10594 of 2020

WEB COPY

Mohamed Rabi

... Petitioner

Vs.

1.The Chairman,  
TANGEDCO,  
N.P.K.R.R. Maaligai, 3<sup>rd</sup> Floor,  
144, Annasalai, Chennai - 600 002.

2.The Chief Engineer / Distribution,  
TANGEDCO,  
Tuticorin Thermal Power Station,  
Tuticorin - 04.

3.The Superintending Engineer,  
TANGEDCO,  
Tuticorin Region,  
Tuticorin - 04.

... Respondents

**Prayer**: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the scrap tender Specification No.03./2019-20 issued by the second respondent and quash the same consequently directing the respondents to issue the re-tender notification by considering the petitioner's representation, dated 09.06.2020 and 12.06.2020.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mrs.M.Rajeswari  
Mr.S.M.S.Jhonny Basha,  
Standing Counsel.

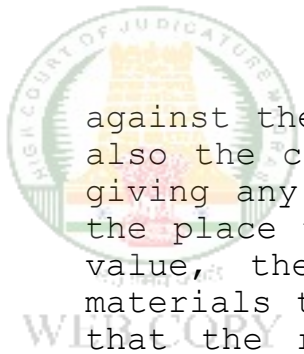
**ORDER**

**(This petition was heard through video conferencing)**

This writ petition has been filed challenging the impugned Specification No.03./2019-20 issued by the second respondent.

2.It is the case of the petitioner that he has given representations on 09.06.2020 and 12.06.2020 wherein he has pointed out that the tender was held in a pandemic situation, which is

<https://hcservices.ecourts.gov.in/hcservices/>



against the law and against principles of natural justice. It is also the case of the petitioner that the second respondent without giving any opportunity to any of the individual tenderers to visit the place where scrap material is available to ascertain the scrap value, the second respondent has attempted to sell the scrap materials through public auction. It is the case of the petitioner that the re-auction held by the respondents in July 2020 is in violation of principles of natural of justice.

3.However, it is the contention of the respondents as seen from the counter affidavit filed by them that the impugned specification No.03./2019-20 has been issued only in accordance with law. According to them, as per the impugned specification, any eligible participants can participate in the tender called for by the respondents. It is also stated in the counter affidavit that pursuant to the tender notification, 12 bidders have participated in the E-Auction and only 11 bidders have offered highest price for 49 lots. According to them, the price bid proposal for 49 lots has been evaluated by the Chief Engineer. The committee had approved for 31 lots on 28.08.2020. Further for the remaining 18 lots, the committee recommended for one more negotiation. According to the respondents, the sale confirmation orders were issued to the H1 bidders for 31 lots to the respective firms on 15.09.2020. According to them, out of 31 lots, release orders were issued for 11 lots after remittance of sale amount from 17.09.2020 to 12.10.2020. According to them, the materials pertaining to 11 lots have also been lifted by the bidders from 23.09.2020 onwards. It is their case that only one scrap item is available for sale. It is also their case that this writ petition is not maintainable as the tender process has been concluded by them in accordance with law and no principles of natural justice has been violated.

4.The learned counsel appearing for the petitioner, on instructions, would submit that the petitioner is willing to bid for the remaining item. He has given representation on 12.06.2020 not only challenging the impugned notification, but also sought for time to participate in the auction. Admittedly, the said representation has not been considered by the respondent till date. The learned counsel for the petitioner further submitted that 18 lots of scrap is still available for sale whereas it is the contention of the respondents that only one lot is available for sale. All these factors will have to be considered by the respondent while disposing the representation, dated 12.06.2020.

5.The relief sought for in this writ petition seeking for quashment of impugned Specification, cannot be granted by this Court as no case has been made out by the petitioner. The only relief that can be granted by this Court is to direct the third respondent to consider the representation of the petitioner requesting to participate in the auction for the remaining scrap material, which is available for sale, for which the petitioner has to give a fresh representation to the third respondent.



6.For the foregoing reasons, this Court directs the petitioner to give fresh representation to the third respondent, within a period of one week from the date of receipt of a copy of this order seeking permission to participate in the auction to be conducted by the third respondent in future, in respect of remaining scrap materials available with them. On receipt of the same, the third respondent shall pass final order on merits and in accordance with law, within a period of four weeks, thereafter.

7.With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Gns

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

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W.P. (MD) No.12387 of 2020

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