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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.16103 of 2005

and

W.P.M.P.No.17528 of 2005

Sri Devi Enterprises,
Rep. by its Partner
R.Durai Raj
142, M.T.H. Road,
Villivakkam,
Chennai-600049.

... Petitioner

Vs.

1. The Secretary,
Highways Department,
Fort St. George,
Chennai - 600 009.
2. The Chief Engineer,
National Highways
Chepauk,
Chennai - 600 005.
3. The Superintending Engineer,
Highways,
Chennai Circle, Guindy,
Chennai-600 032.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the respondent relating to the impugned order of the respondent in 2022/2005/D3 dated 29.04.2005 and to quash the order passed.

For Petitioner : Mr.Kandavadivel Dorai Sami

For Respondents : Mr.M.Rajendiran
Additional Government Pleader



O R D E R

The impugned order dated 29.04.2005, removing the petitioner from the approved list of work contractors is under challenge.

2. Based on the allegation of execution of substandard work in the work of strengthening the week two lanes in K.M.217/0 to 230/0 of NH-7 (BSM Section) and for furnishing false information in respect of the other allegations, actions were initiated and the petitioner company was removed from the list of work contractors.

3. The learned counsel for the petitioner drew the attention of this Court with reference to the actions taken against the Highways Department Authorities, more specifically, against the Divisional Engineer and other officials. Charges were framed and the charges against the officials of the Highways authorities are dropped by the Government. Relying on the said Government Orders, the learned counsel for the petitioner reiterated that when the sub-standard quality of work is not established against the officials, the same cannot be established against the petitioner also. Based on the Government Orders passed exonerating the officials of the Highways Department, the order impugned has to be set aside.

4. The earlier Writ Petition filed by the petitioner in W.P.No.18046 of 2004 to direct the respondents to disburse the Retention Amount and Security Deposit amount was considered by this Court and the Writ Petition was allowed. Thus, the present Writ Petition is also to be allowed.

5. Pertinently, the impugned order has been passed in the year 2005. Many developments occurred during the pendency of the Writ Petition and the deposited amounts were also repaid to the petitioner, pursuant to the orders passed by this Court on 17.08.2017 in W.P.No.18046 of 2004. This Court in the said Writ Petition directed the authorities to refund the amount of Rs.13,96,286/- to the petitioner within a period of 45 days from the date of receipt of a copy of the order. The said amount of refund was related to Retention Amount and Security Deposit amount.

6. The learned Additional Government Pleader brought to



the notice of this Court that the said amount had already been settled in favour of the petitioner. Under these circumstances and taking note of the fact that impugned order was passed in the year 2005, this Court is of the considered opinion that the case of the Writ Petitioner has to be considered a fresh, on merits and in accordance with law. The documents relied upon by the petitioner are also to be considered for the purpose of taking a decision.

7. This being the factum established, the petitioner is at liberty to submit an application for the purpose of restoration / inclusion of the name of the petitioner company in the approved list of work contractors along with the relevant documents, within a period of two weeks from the date of receipt of a copy of this order. On receipt of any such application, the 3rd respondent is directed to consider the said application and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of the application from the Writ Petitioner.

8. Till the decision is taken by the authorities, the existing position of the petitioner need not to be interfered with.

9. The Writ petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

shr/kan

To

1. The Secretary,
Highways Department,
Fort St. George, Chennai - 600009.
2. The Chief Engineer,
National Highways
Chepauk, Chennai - 600005.



3. The Superintending Engineer,
Highways, Chennai Circle, Guindy,
Chennai-600032.

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+1cc to M/s.Muthumani Doraisami, Advocate, S.R.No.65377

W.P.No.16103 of 2005
&
W.P.M.P.No.17528 of 2005

RSI (CO)
SU(28/12/2021)