



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2021

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.NO.6688 OF 2021

M/s.PPS & Co Engineering Contractor  
Rep by its Managing Partner  
PPS Complex  
Mettur Main Road  
Omalur, Salem - 636 455

... Petitioner

Vs.

1. The Superintending Engineer (H)  
Projects Circle,  
Coimbatore - 43.

2. The Divisional Engineer (H)  
Quality Control, Salem.

... Respondents

PRAYER:-

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent to inspect and issue machinery certificate pursuant to petitioner letter dated 25.02.2021 and 27.02.2021 and permit the petitioner to submit the same to the 1st respondent in Tender Reference No.TN. No.09/2020-21 SDO for Jalakandapuram Bye-Pass.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents : Mr.M.Loganathan,  
Addl. Govt. Pleader for R1 to R3

O R D E R

This writ petition is for a direction to the second respondent to inspect and issue a machinery certificate pursuant to petitioner's letter dated 25.02.2021 and 27.02.2021 and permit the petitioner to submit the same to the 1st respondent in Tender Reference No.TN. No.09/2020-21 SDO for Jalakandapuram Bye-Pass project.



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2. Short facts, which are necessary for the disposal of the writ petition are that the Petitioner is one of the leading contractors under the State, Central Governments and Local Authorities. The 1st respondent called for a e-tender dated 27.01.2021 under two covers system through online only. In the tender notice, it has been mentioned that, it is mandatory for the bidder to submit a machinery certificate to undertake the work. In this regard, the petitioner has submitted a letter dated 25.02.2021 followed by a reminder on 27.02.2021, to inspect and issue a machinery certificate. As the second respondent did not inspect and issue a machinery certificate till 28.02.2021 and the last date for submitting the e-tender was on 01.03.2021, the petitioner has submitted e-tender on 28.02.2021, and the same was accepted by the tenderer and a receipt was issued.

3. In the meanwhile, on 27.02.2021, the first respondent has issued a corrigendum to the tender intimating that the Model Code of Conduct will come into effect immediately and that the tender opening date is postponed till the revocation of the model code of conduct. Hence the petitioner requested the second respondent to conduct an inspection and issue a machinery certificate so that the same can be incorporated in the bid, which was submitted on 28.02.2021. As there was no response from the respondent, the petitioner has approached this court for a mandamus.

4. Heard both sides and perused the materials available on record.

5. The second respondent has filed a counter affidavit, wherein in paragraph 5, it has been stated that the first respondent has issued a Corrigendum dated 27.02.2021 to the tender stating that the original date fixed for opening the bid, is postponed till revocation of the Model Code of Conduct by the Election Commission of India. As the tender shall not be performed by the first respondent until revocation of the model code of conduct by the Election Commission of India, the petitioner is seeking only inspection of the machinery and issue a machinery certificate, without which they will be deprived of their right in participating in the tender.

6. Admittedly, it is mandatory that the participants have to attach a machinery certificate along with the tender. This court also finds no impediment for the respondents to inspect the machinery and issue a machinery certificate. The Model code of conduct will be revoked on 02.05.2021 when the counting of the votes and the results of the election, will be announced. Therefore, the second respondent is directed to inspect the machinery pursuant to the letters of the petitioner dated



25.02.2021 and 27.02.2021, and issue a machinery certificate, in accordance with law, on or before 10.05.2021.

7. With the above direction, the writ petition is disposed of. However, there is no order as to costs.

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Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

asr

To

1. The Superintending Engineer (H),  
Projects Circle,  
Coimbatore - 43.
2. The Divisional Engineer (H),  
Quality Control, Salem.

+1cc to Mr.M.S.Palaniswamy, Advocate, S.R.No.22920  
+1cc to the Government Pleader, S.R.No.23128

W.P.NO.6688 OF 2021

PL(CO)  
PBS/27/07/2021