



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.16920 of 2019

M/s.Maruti Cottex Limited,
S.No.257, Village & Mandal Choutuppal,
Yadadri Bhuvangiri District,
Telangana - 508 252,
represented by its Senior Manager,
V.Raju

... Petitioner

vs.

1. The Department of Handlooms and Textiles,
represented by its Joint Director (Uniforms)/
Tender Inviting Authority,
Office of the Director of Handlooms and Textiles,
Kuralagam, II Floor,
Chennai 600 108.
2. The Tender Acceptance Committee/Authority,
represented by its Chairman/
Director of Handlooms and Textiles,
Office of the Director of Handlooms and Textiles,
Department of Handlooms and Textiles,
Kuralagam, II Floor, Chennai 600 108.
3. The Tender Scrutiny Committee,
represented by its Chairman,
Office of the Director of Handlooms and Textiles,
Department of Handlooms and Textiles,
Kuralagam, II Floor, Chennai 600 108.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the 2nd Respondent culminating in its impugned proceedings bearing Sl.No.2019-20/U.Process/003, dated 25.04.2019, furnished to the Petitioner on 17.05.2019 before this Court, quash the same insofar as it pertains to and renders the Petitioner as an ineligible Tenderer.

For Petitioner : Mr.Arun Anbumani



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For Respondents : Mr.J.Ravindran,
Addl. Advocate General
assisted by
Mr.M.R.Gokulakrishnan,
Government Advocate

O R D E R

Petitioner has come up with the present Writ Petition seeking to quash the impugned proceedings dated 25.04.2019 passed by the 2nd Respondent herein, insofar as it renders their Company as an ineligible Tenderer.

2. According to the Petitioner, their Company is a processor of Polycot Fabric Cloth and has its Unit at S.No.257, Village & Mandal Choutuppal, Yadadri Bhuvangiri District, Telangana. It is in the business of cloth processing for more than two decades and has been processing cloth orders in respect of several Government Schemes in India, for the past 15 years. On 08.03.2019, the 1st Respondent made a paper publication inviting Tenders for processing of Uniform Cloth under Free Supply of Uniform Scheme for the academic year 2019-20. The Petitioner participated in the pre-bid meeting held on 25.03.2019 in the Office of the 1st Respondent in Chennai and complied with all the terms and conditions contemplated in the Tender document. In accordance with the Tender document, inspection was conducted in the Petitioner's Unit on 20.04.2019 by the 1st Respondent's team. The Petitioner was given to understand from the inspection team that, they will submit their Report to such effect with the 1st and 2nd Respondents and that, they will evaluate the Tenders by opening the Price Bid on or before 24.04.2019. As the Petitioner did not hear from the 1st and 2nd Respondents, they sent an email on 26.04.2019 requesting the status of their Tender. Even the reminder emails sent by the Petitioner to the Respondents did not evoke any response. To their shock, the Petitioner received a communication from the 1st Respondent that, their Company's tender stands unsuccessful and that, the EMD amount deposited by them is returned along with the said letter.

3. As the reasons for declaring the Petitioner unsuccessful were not divulged despite several requests by the Petitioner, they filed a Writ Petition in W.P.No.14458 of 2019 seeking a direction to the 1st and 2nd Respondents to furnish the proceedings of the Tender Acceptance Committee Meeting held on 23.04.2019 and the reasons for holding the Petitioner as unsuccessful tenderer in the Tender for processing of Uniform Cloth under Free Supply of Uniform Scheme for the academic year 2019-20. The said Writ Petition was dismissed as infructuous, however, giving liberty to the Petitioner to challenge the



reasons for the ineligibility, as stated by the Respondents. However, this Court directed the Standing Counsel for Respondents 1 and 2 to handover a copy of the impugned proceedings to the Petitioner's Counsel. 4. Pursuant thereto, a photocopy of the impugned proceedings of the 2nd Respondent was handed over to the Petitioner's Counsel on 17.05.2019 by the Officials of the 1st and 2nd Respondents. Reasons for ineligibility in respect of the Petitioner/Company, as cited in the impugned proceedings, are thus:

(i) ZLD facility of the tenderer Unit is capable of treating 360 KLD of effluent water per day only which is inadequate to treat the effluent water which would be generated by processing of 1,00,000/- metres of cloth. Hence, this tenderer did not fulfil the tender condition No.6.

(ii) In the previous year Uniform Scheme (AY 2018-19), due to quality complaints, the Scheme Nodal Agency Co-optex returned the defective improperly processed cloth to the tenderer M/s.Maruthi Cottex Ltd. for reprocessing. But the tenderer M/s.Maruthi Cottex Ltd. sent the same defective Uniform Cloths repeatedly without reprocessing and thus, this Unit has not maintained quality. Hence, this tenderer is not eligible as per tender condition No.10."

Challenging the impugned proceedings passed by the 2nd Respondent, the Petitioner is before this Court with the above Writ Petition.

5. Learned counsel for the Petitioner contended that, the 2nd Respondent committed a grave error in concluding that, the Petitioner did not fulfil tender condition No.6, by claiming that, the ZLD facility of the Petitioner is capable of treating 360 KLD of effluent water per day only and that, the same is inadequate to treat the effluent water which would be generated by processing 1,00,000 metres of cloth. Learned counsel submitted that, out of the total quantity of 379.51 lakh metres in the present tender, 206.42 lakh metres pertain to Polycot Shirting, for which water consumption will be very less, since, as per the present tender for the said quantity, there is no dyeing activity involved and only washing has to be done.

6. On the other hand, learned Additional Advocate General appearing for the Respondents submitted that, the 2nd Respondent's decision to render the Petitioner ineligible for



opening of Price-bid is bonafide based on the Tender Scrutiny Committee Report. Only those bidders who have been found successful and responsive to the technical bid are eligible to further participation in the price bid. He contended that, that there was quality complaint during the previous year Uniform Scheme as reported by the Nodal Agency and that, the 2nd Respondent, based on the Report of the Inspection Team and Document Verification Team, came to the conclusion that, the Petitioner was unsuccessful in fulfilling the minimum qualification of the tender document. Therefore, the intention of the Respondents on the genuine issues experienced by them during the earlier tender, made them conscious to include wherever necessary the required terms and conditions and qualifications.

7. However, learned Additional Advocate General appearing for the Respondents stated that, if the Petitioner satisfies all the tender conditions, there is no bar for the Petitioner to participate in the future tender process.

8. Heard the learned counsel for the parties and perused the material documents available on record.

9. In the counter Affidavit, Respondents have clearly stated that, the Joint Director of the Team appraised the Committee that, as per the machineries available, the processing capacity of the Petitioner Unit is 1.08 lakh metre per day, but, the R.O. Provision in the ZLD facility of the Tenderer Unit is capable of treating only 3,60,000 litres of effluent water per day only, which is inadequate to treat the effluent water generated by processing 1,00,000 metres of Polycot Uniform Cloth. Hence, he had reported that, the present ZLD facility is inadequate to treat 8,00,000 litres of effluent water, which would be generated by processing 1,00,000 metres of Uniform Cloth and therefore, came to the conclusion that, the Tenderer had not fulfilled the Tender Condition No.6 read with Tender clause IX (8).

10. It is also stated by the Respondents that, when the Petitioner was in the business of processing cloth for a quite long period of 20 years, their order book for processing should have at least some orders pending and they cannot maintain their order book at Zero level. Though, the Petitioner was a successful tenderer in the previous year, they cannot deny the fact that, there were quality issues in the last tender and evidently, this has been shown as one of the reasons for being non-responsive for the present tender.

11. Considering the facts and circumstances of the case and in view of the foregoing, this Court holds that, the Petitioner



Company is entitled to participate in the future tender process and if the same difficulty is experienced by the Petitioner Company in the future tender process, they are at liberty to canvass all the points, by producing requisite documents before the Tender Scrutiny Committee.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected W.M.P.Nos.16501 and 16504 of 2019 are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

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represented by its Joint Director (Uniforms)/
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3. The Tender Scrutiny Committee,
represented by its Chairman,
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Department of Handlooms and Textiles,
Kuralagam, II Floor, Chennai 600 108.

+1cc to Mr.Arun Anbumani, Advocate, S.R.No.60503
+1cc to the Government Pleader, S.R.No.61495

W.P.No.16920 of 2019

KSM(CO)
CT 21/01/2022