



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

CORAM

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY
and
THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.No.2812 of 2021
and
C.M.P.No.18605 of 2021

M/s.Thukkaram Builders and Contractors
Private Limited,
No.34, Kumaran Nagar,
80 Feet Road, Peravallore, Chennai - 82
rep. By its Director C.L.Thukkaram

.. Appellant

Vs.

1. The Superintending Engineer,
CEDC/North, '5A' Block,
144, Anna Salai, Chennai - 2.
2. The Chief Engineer,
Chennai Electricity Distribution
Circle/North, '5A' Block,
144, Anna Salai, Chennai - 2.
3. The Chairman and Managing Director,
TANGEDCO, 10th Floor,
144, Anna Salai, Chennai - 2.
4. Hema Constructions rep. By its
Proprietor Rajendran

.. Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 29.09.2021 in W.P.No.6763 of 2020.

Prayer in W.P.No.6763 of 2020: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of declaration declaring that the entire tender process relating to tender Specification No. SE/ CEDC / North/ Civil-25/ 2019-20 is illegal and contrary to Section 8 of Tamil Nadu Transparency in Tender Act 1998 read with rule 21 of the Tamil Nadu Transparency in Tenders Rules 2000.



WEB COPY

For Appellant : Mr.M.Devaraj

JUDGMENT

(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 29 September 2021 passed by learned Single Judge recorded on W.P.No.6763 of 2020.

2. This appeal is by the original writ petitioner.

3. Learned advocate for the appellant/ original writ petitioner has submitted that the rejection of the writ petition be interfered with. It is submitted that the process of opening tender, which was the subject matter of the writ petition itself was illegal on more than one counts and therefore the relief as prayed ought to have been granted.

4. Learned advocate for the appellant has addressed the Court at length as to what illegalities are committed by the respondent authorities, in the perception of the appellant including lack of transparency in the tender process. It is also submitted that demerits attributed to the present appellant would apply equally to the successful bidder (fourth respondent) as well and going by that parameter also the bid of fourth respondent could not have been accepted. It is submitted that the representation of the present appellant is also not properly considered by the authorities which also ought to have been taken into consideration by learned Single Judge. It is submitted that this appeal be entertained.

5. Having heard the learned advocate for the appellant and having considered the material on record, this Court finds as under:

5.1. The prayer clause in the writ petition is to declare the tender process to be illegal.

5.2. It is not in dispute that the present appellant was also one of the bidders.



5.3. Learned Single Judge after hearing the parties found that the present appellant was already treated 'ineligible' to participate in the tender process and has satisfied himself about his ineligibility. We do not find any error therein.

WEB COPY

5.4. This takes us to a situation where, not only an unsuccessful bidder but an ineligible bidder is questioning the tender process, which is not interfered with by learned Single Judge. We do not find any error in the final outcome of rejection of the writ petition, which may call for any interference in this appeal.

5.5. We also find that learned Single Judge has further recorded satisfaction to the effect that, awarding contract to the private respondent in the facts of this case could not be termed to be illegal in any manner. Though, having held that the writ petitioner could not have questioned the tender process, on independent assessment of the process, when learned Single Judge has found that no interference is required, we do not see any error apparent on the face of record, which may call for any interference in an intra-court appeal. Other issue with regard to transparency etc., is not required to be gone into in this appeal, at the hands of this appellant.

6. For the reasons recorded above, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mmi/3

To

1. The Superintending Engineer,
CEDC/North, '5A' Block,
144, Anna Salai, Chennai - 2.
2. The Chief Engineer,
Chennai Electricity Distribution
Circle/North, '5A' Block,
144, Anna Salai, Chennai - 2.



3. The Chairman and Managing Director,
TANGEDCO, 10th Floor,
144, Anna Salai, Chennai - 2.

WEB COPY

+1cc to Mr.M.Devaraj, Advocate, S.R.No.59275

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.59232

W.A.No.2812 of 2021

GSM(CO)
SU(06/12/2021)