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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.17000 OF 2017

K.Devendiran

... Petitioner

..Vs..

1. The District Collector,
Vellore District, Vellore.
2. The Commissioner,
Vellore City Municipal Corporation,
Vellore.
3. The Assistant Executive Engineer,
Vellore City Municipal Corporation,
Infantry Road, Vellore-1.
4. T.Saravanan, Contractor,
No.31, Kalaldoss Pakkiri Street,
Kalsapalayam, Vellore.

... Respondents

PRAYER:

Writ petition filed under Section 226 of the Constitution of India to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of the writ by directing the second and third respondents to cancel the allotment of tender in respect of Tamilnadu Urban Road infrastructural projects. TURIP 2016-2017 for providing black topping in ward No.16, 20, 21,22, 23, 28, 29, 33, 37, 43 under package II and Vellore Municipal Corporation and direct the second and third respondents to conduct fresh tender.

For Petitioner : Mr.D.Rajagopal

For respondents : Mr.D.Venkadesan,
Government Advocate for R1
Mrs.P.Shanthi for R2 and R3
Mr.B.Kannadasan for R4



ORDER

This petition has been filed for direction to the second and third respondents to cancel the allotment of tender in respect of Tamilnadu Urban Road infrastructural projects TURIP 2016-2017 for providing black topping in ward No.16, 20, 21,22, 23, 28, 29, 33, 37, 43 under package II and Vellore Municipal Corporation and direct the second and third respondents to conduct fresh tender.

2. The brief facts of the writ petition is as follows:

The petitioner is a Class-I Government Registered Contractor on Highway Department, Municipal Corporation. The second and third respondents called for tender notification under Tamil Nadu Urban Roads Infrastructural Projects 2016-2017 for providing Black Topping, using paver Machines, in War No. 16, 20, 21,22, 23, 28, 29, 33, 37, 43 under package II and Vellore Municipal Corporation. The value of the tender was fixed at Rs.2,00,00,000/-. However in tender notification, the details of approximate estimate for each package work, was not provided, which prevented the petitioner to file application. Inspie of that, the petitioner downloaded the bid documents and submitted his tender form.

2.1. In such circumstances, the petitioner filed a writ petition in W.P.No.1431 of 2017 to quash the tender notification. In that writ petition, the Special Government Pleader, on instruction, represented that the tender applications were opened on 18.01.2017 in the presence of tenderers and the applications are pending for scrutiny and evaluation and the tender would be finalised within a period of two weeks and the petitioner application also would be considered. On the basis of the representation by the Government Pleader, the writ petition was closed. According to the petitioner, the tenders were not opened in the presence of the petitioner as stated before the court.

2.2. Subsequently, the petitioner requested the first and second respondents to furnish the details of the opened tender and whether the tender of the petitioner is accepted or rejected and who is the successful bidder. But the petitioner came to know that second and third respondents allotted the work to the fourth respondent and already orders has been issued to carryout the projects. Hence, the petitioner issued legal notice to the respondents to cancel the allotment of the tender in respect of the above project and also to conduct fresh tender by following rules and regulations. Even after receipt of the legal notice, so far, the second and third respondents did not consider the same. Hence, this writ petition.



3. The contentions of the counter affidavit filed by the second respondent briefly as follows:

As admitted in the open court by the Government Pleader, appearing for the Corporation, the tender of the petitioner was admitted and technical bid of his tender was opened on 18.01.2017, in the presence of bidders, including the petitioner. Then, the tender opening Committee has evaluated the technical bids with reference to the tender conditions. After completion of evaluation, the Committee has concluded and declared that the tender of the petitioner did not meet the minimum eligible criteria of the tender conditions vide compliance criteria, as per Clause 4.1.A.2 of the Tender Conditions and thereby declared as ineligible tender. Because, the petitioner did not submit the mandated tender document of proof for being in the civil engineering construction field atleast for the past 5 year (2011-2012 to 2015-2016) and he had not submitted the audited Balance Sheet for the year 2011-2012, as per the compliance criteria of the tender Bid Schedule.

3.1. There is no provision in the tender conditions for furnishing the status of the tenders to the bidders, as requested by the petitioner. As per the Tamilnadu Tender Transparency Act and Rules, the tenders were invited, evaluated, processed and finalised and hence, there is no violation of any Rules and Regulations. The work order has already been issued on 04.05.2017 to the successful contractor and the works are in progress. Hence, the prayer sought in the writ petition has become infructuous and the writ petition is liable to be dismissed.

4. The counter affidavit was filed in the year 2017. Inview of the statement in the counter affidavit that the petitioner was not the eligible tender, as he had not submitted the document of proof for being in the Civil Engineering Construction field atleast for the past 5 years and had not submitted the Audited Balance Sheet for the year 2011-2012, and also inview of the fact that already work order has been issued and the works are in progress, the relief sought in the writ petition cannot be considered.

5. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



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To

1. The District Collector,
Vellore District, Vellore.
2. The Commissioner,
Vellore City Municipal Corporation,
Vellore.
3. The Assistant Executive Engineer,
Vellore City Municipal Corporation,
Infantry Road, Vellore-1.

+1cc to Mr.B.Kannadasan, Advocate, S.R.No.25286
+1cc to the Government Pleader, S.R.No.25671

W.P.No.17000 of 2017

CS/13/08/2021