



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.03.2021**

CORAM

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

WEB COPY

W.P (MD) Nos. 3237, 3241 and 3247 of 2021

and

M.P (MD) Nos. 2569, 2572, 2573, 2574, 25777, 2579, 2581 to 2583, 3732, 3733 and 3755 2021

M/s.Vijay Durgambiga Construction
represented by its partner,
N.Manoj S/O.E.Natarajan,
D.No.4D, Ramalinga Street,
Vannarapettai, Tirunelveli

.. Petitioner in all WPs

Vs

1.The Superintending Engineer (H),
NABARD and Rural Roads, Tirunelveli - 2.

2.The Divisional Engineer (H),
NABARD and Rural Roads,
Tirunelveli.

`... Respondents in all WPs

COMMON PRAYER:Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned rejection of technical bid by the 1st respondent in reference to Tender No Ref.No.TN.No.11/2020-21/D1_33, TN.No.12/2020-21/D1_36, TN.No.12/2020-21/D1_37, respectively which are updated in the official website, Tamil Nadu Tenders on 12.02.2021 and quash the same as illegal and unconstitutional, consequently direct the respondents to accept the technical bid submitted by the petitioner insofar as packages 33,36 and 37 enabling the petitioner to participate in the opening of Financial bid with reference to Tender Ref.No.TN.No.12/2020-21/D1_33, TN.No.12/2020-21/D1_36, TN.No.12/2020-21/D1_37 respectively.

For Petitioner	:	Mr.M.Maharajan
For Respondents	:	Mr.K.Chellapandian, Additional Advocate General assisted by Mr.C.Ramesh, Special Government Pleader

COMMON ORDER

All these three writ petitions raise identical grounds and issue and therefore, they are taken up together for common disposal.



2. These writ petitioners claim themselves as registered class-I contractors in the Highways Department. The common grievance of these petitioners is that they responded to a tender notification issued by the respondents on 06.01.2021. The petitioners have uploaded their applications for their consideration within the time stipulated in the notification dated 06.01.2021 and according to them that they have satisfied the requirements in terms of the tender notification conditions.

3. On 12.02.2021, the technical bids were opened by the respondents and as far as these writ petitioners were concerned, they were informed that their bids had not been admitted on the ground that "not complied with technical specification". Challenging the rejection of the technical bids, these writ petitions have been filed.

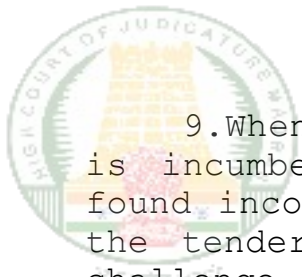
4. Several grounds were raised in these writ petitions assailing the procedure adopted in the conduct of the tender and consideration of the bidders. According to the petitioners the respondents have given a go-by to the mandatory provisions as contained in the Tamil Nadu Tender Transparency Act and the Rules framed thereunder.

5. Initially when this Court has entertained these writ petitions, has granted an order on 18.02.2021 and subsequently, vacate stay petitions were filed on behalf of the respondents that these petitioners did not fulfil the mandatory conditions namely, the certificate to be issued by the Divisional Engineer (Quality Control) concerned for the working condition on or after 06.01.2021, ought to be uploaded along with by the bidders, whereas the working condition certificate produced on or before 06.01.2021 would not be acceptable as fulfilment of the condition.

6. According to the petitioners, since the petitioners have not complied with the technical specifications and their technical bids had not been admitted and rightly rejected.

7. Mr. K. Chellapandian, learned Additional Advocate General had clearly explained as to why such requirement had been insisted upon, in order to enforce the effectiveness in carrying out the tender projects without any hitches.

8. Although the learned Counsel appearing for the petitioners objected to such conditions being provided for any tender notification as such conditions would only help the chosen few contractors by the powers that be.



9. When these petitioners had responded to the notification, it is incumbent upon them to satisfy all the conditions that are found incorporated in the notification. They have participated in the tender process and it is not open to these petitioners to challenge one of the conditions found in the notification as being illegal or unjust. It is also not open to the petitioners, to compel the tender issuing authority to formulate the conditions on the basis of their terms.

10. At the end of the day what is to be seen is that whether the petitioners have fulfilled all the conditions or not in terms of the tender notification and the answer in this case is "no". When the petitioners have suffered disqualification at the opening of the technical bid, the objections that the respondents have not followed the Tamil Nadu Tender Transparency Act and the Rules made thereunder may not merit serious consideration of this Court for granting the relief as sought by these petitioners.

11. For the above stated reasons, the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(P & A)

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/ /2021

Sub Assistant Registrar(CS)

dsk

To

1. The Superintending Engineer (H),
NABARD and Rural Roads, Tirunelveli - 2.

2. The Divisional Engineer (H),
NABARD and Rural Roads, Tirunelveli.

+3 CC to M/s.M.MAHARAJA, Advocate (SR-13027 to 13029[F] dated 23/03/2021)

+1 CC to M/s.SPL GP (SR-13304[F] dated 24/03/2021)

W. P (MD) No. 3237 of 2021
23.03.2021

na (CO)

TR(04.05.2021) 3P 7C