



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.03.2021**

CORAM

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

W.P. (MD) No.5749 of 2021

WEB COPY

M/s.STAR SEVEN ELEVEN,
represented by its Proprietor,
P.Nagarathinam,
G,26/1, STAR 7,11,
Ramiyah Street,
Jaihinpuram,
Madurai.

.. Petitioner

Vs

1.The Development of Commissioner,
MSME,
Nirman Bhavan, A-Wing,
7th Floor, Maulana Azad Road,
New Delhi - 110 108.

2.State represented by
Secretary to Government,
Micro, Small and Medium Enterprises (D2) Department,
Secretariat,
Chennai.

3.State represented by
Secretary to Government,
Public Works Department,
Secretariat,
Chennai.

4.National Small Industries Corporation Limited,
No.74, ADR Towers, 1st Floor,
Kalavasal,
Theni Main Road,
Madurai 625 016.

5.The Commissioner,
Madurai Corporation,
Aringar Anna Maligai,
Madurai.

.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents herein to ensure the implementation of the benefits given by the MSME Development Act, 2006 Which is adopted by the Tamilnadu Transparency in Tender Act in all their tender process so as to enable the petitioner firm which is duly registered under MSME



Act, to participate in the tender process of Government departments by availing the benefits available to them as per MSME Act and consider them for allotment of tenders if the petitioner firm is otherwise eligible.

For Petitioner : Mr.Porkodi Karnan for
M/S.Polex Legal Solutions
For R2 & R3 : Mr.B.Bhagavathi
Government Advocate

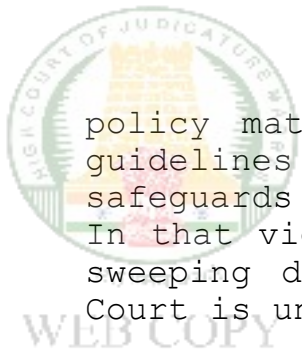
ORDER

The petitioner is a partnership firm and claims to have registered the firm under Micro Small and Medium Enterprises Act. The petitioner is eligible to participate in the tenders to be floated on behalf of the State Government and the State Agencies for carrying out public project. They are being aggrieved for the reason that in all the tender notifications that has always been a restriction for grant of tenders only to the registered contractors and having previous experiences of the same nature of work, thereby, denying any opportunity to the petitioner to participate in any of the tender notifications issued by the various State agencies. According to the petitioner, new comers are totally excluded from the consideration, with the result a small or a medium entrepreneur like the petitioner herein is prevented from gaining experience.

2.According to the petitioner Firm, the Government of India and the State of Tamilnadu have issued instructions that atleast 25% of the work should be allocated to the MSME companies. Unfortunately, the tender notifications have been issued and the policy of the Government has not been invariably followed. Therefore, the petitioner is before this Court seeking to issue a direction to the respondents to ensure the implementation of the benefits given by Micro Small and Medium Enterprises Act, 2006, in all the tender notifications.

3.This Court is unable to appreciate as to how a blanket direction could be given to the respondents on the basis of the self-serving averments of the petitioner firm. In a matter of award of contract or bidding in tender, it is up to the registered contractors to participate for the same and become a successful tenderer or contractor. If any unjust or arbitrary process is being adopted, while floating the tender notification or grant of contract to any party and if the petitioner is a participant in such tender process, he may have a legitimate grievance for approaching this Court. But at the same time, he cannot approach this Court with a general kind of grievance and expect this Court to issue a blanket direction to the respondents and mandate them to follow the general policies of the Government of India or Government of Tamilnadu.

4.It is not for any Court to give such general direction in



policy matters. Each tender notification is governed by separate guidelines and the Transparency Act is also in place providing safeguards from misusing any tender process by the State Authority. In that view of the matter, it is not for the petitioner to seek a sweeping direction from this Court, which in the opinion of this Court is unsustainable and cannot be granted.

5. For the above said reasons, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. Secretary to Government,
Micro, Small and Medium Enterprises (D2) Department,
Secretariat,
Chennai.

2. Secretary to Government,
Public Works Department,
Secretariat,
Chennai.

+1 CC to M/s.SPL GP (SR-11513[F] dated 16/03/2021)

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NA(CO)
GS(24.04.2021) 3P 4C