



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2021

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.10373 of 2021

and

W.M.P (MD) No.8045 of 2021

G.Elavarasan

...Petitioner

Vs.

1.The Principal Secretary,
Public Work Department,
St.George Fort, Secretariat,
Chennai-600009.

2.The Chief Engineer,
WRD & PWD,
Madurai Zone, Madurai-625 002.

3.The Superintending Engineer,
WRD & PWD,
Periyar Vaigai Basin Circle, Madurai-625 001.

4.K.Maduraiveeran,
Class I Contractor,
Nayakkanpatti,
Alagarkovil Post, Madurai District.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Letter issued by the 3rd respondent in letter No. Lr.No. D2/36Avk;/C.135/2020, dated 18.02.2021, regarding bit application for the tender reference No. NIT11/D2/C.135/2020, dated 25.01.2021 and Tender ID.pwd81808 and quash the same and consequently direct the 3rd respondent to conduct the fresh tender auction in respect of constructing protection Wall for Velachi stream, which is situated in Mangalam Village, Madurai District.

For Petitioner : Mr.R.Selvaraj
For R-1 to R-3 : Mr.M.Lingadurai,
Government Advocate

ORDER

This Writ Petition has been filed aggrieved by the letter of the third respondent, dated 18.02.2021, wherein, the tender



application submitted by the petitioner has been rejected on the ground that it has been received beyond the time limit.

2. Heard Mr.R.Selvaraj, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Government Advocate appearing for the respondents.

3. The petitioner had earlier approached this Court and filed W.P.(MD).No.4484 of 2021 for a direction to the respondents to consider the application submitted by him for participating in the tender. When the matter came up for hearing on 09.04.2021, this Court was informed that the application submitted by the petitioner was received beyond the time limit and therefore, it was returned and the tender has already been finalised and granted in favour of the fourth respondent and the work order has also been issued in his favour. Therefore, this Court granted liberty to the petitioner to challenge the rejection letter issued by the third respondent.

4. Based on the liberty granted by this Court, the petitioner has challenged the impugned rejection letter of the third respondent. Admittedly, the third respondent is the Tender Accepting Authority. Any tenderer, who is aggrieved by the order passed by the Tender Accepting Authority under Section 10 of the Tamil Nadu Transparency in Tenders Act, 1998, (hereinafter referred to as "the Act") must file an appeal before the Government within ten days from the date of receipt of the order and the Government should dispose of the appeal within fifteen days from the date of receipt of the appeal.

5. The tender submitted by the petitioner has been rejected on the ground that it was received in the office on 16.02.2021 at 03.10 p.m., which is beyond the time limit fixed in the tender application. The ground raised by the petitioner is that the third respondent had received the application on 16.02.2021 at 02.15 p.m., which is well within the time stipulated in the tender application. This ground raised by the petitioner requires appreciation of facts and the petitioner has been given an effective alternative remedy to file an appeal to the Government under Section 11 of the Act for this purpose. Therefore, the petitioner has to necessarily exhaust this remedy before filing a Writ Petition before this Court.

6. In view of the above, liberty is granted to the petitioner to file an appeal before the Government on or before 28.06.2021. On such appeal being filed, the Government shall hear the parties and dispose of the appeal within a period of fifteen days as provided under Section 11 of the Act. Except giving this liberty, no further orders can be passed in the present Writ Petition.



7. This Writ Petition stands disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note 1. Issue Order Copy by 23.06.2021

2. In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

1.The Principal Secretary,
Public Work Department,
St.George Fort,
Secretariat,
Chennai-600009.

2.The Chief Engineer,
WRD & PWD,
Madurai Zone,
Madurai-625 002.

3.The Superintending Engineer,
WRD & PWD,
Periyar Vaigai Basin Circle,
Madurai-625 001.

+1 CC to M/s.SPL GP (SR-19921[F] dated 22/06/2021)

W.P. (MD) .No.10373 of 2021
and
W.M.P (MD) No.8045 of 2021
21.06.2021

KB(23.06.2021) 3P 5C