



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P(MD)NOS.11304 and 11308 of 2021

WEB COPY

1.S.Subramanian :Petitioner in W.P(MD)No.11304 of 2021

2.V.Kumaresan :Petitioner in W.P(MD)No.11308 of 2021

.vs.

1.The Engineer-in-Chief(WRO),
Chief Engineer(General),
Public Works Department,
Chepauk,
Chennai.

2.The Superintending Engineer,
Public Works Department,
Trichy : Respondents in both the Writ Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent in Letter No.Thaa/MuvaA-1/Go.Pathivu/2020, dated 18.05.2021 and to quash the same as illegal and arbitrary and in consequence thereof to direct the first respondent to pass appropriate orders to register the name of the Petitioners as Class-I Contractors in the register maintained by the first respondent.

For Petitioners	:Mr.P.Ganapathi Subramanian in both W.Ps'
For Respondents 1 and 2	:Mr.R.Suresh Kumar Govt.Advocate in both W.Ps'

COMMON ORDER

The issue involved in both the Writ Petitions are common and hence both the Writ Petitions are taken up together, heard and this common order is passed.

2.The Petitioners are questioning the impugned order passed by the first respondent through letter, dated 18.05.2021 and for a consequential direction to the first respondent to register the Petitioners as Class-I Contractors.



3. When the matter came up for admission on 8.7.2021, this Court passed the following order:

'Mr.R.Sureshkumar, learned Government Counsel, takes notice for the respondents in both cases.

2. The learned counsel for the petitioners submitted that both the petitioners are Class - II Contractors in Pudukottai Municipality. The learned counsel further submitted that Class - II Contractors are awarded contract up to the value of Rs.75,00,000/- (Rupees Seventy Five Lakhs only). For awarding the work for a value more than Rs.75,00,000/-, the Contractors will have to register themselves as Class - I Contractor. Accordingly, both the petitioners submitted applications before the respondents to register themselves as Class - I Contractors. The first respondent through the impugned letter, dated 18.05.2021, has rejected the request made by both the petitioners, mainly on the ground that the petitioners have not undertaken the work for a value of Rs.75,00,000/- for each year for a continuous period of five years.

3. The learned counsel for the petitioners attacks the impugned order mainly on the ground that there is no such Rule, which makes such a stipulation and the first respondent has unilaterally imposed a condition which is not supported by any Rule.

4. The learned Government Counsel is directed to take instructions in this regard and inform this Court the Rule under which the first respondent has made such a stipulation.

5. Post this case under the caption 'For Orders' on 16.07.2021.

4. The crux of the issue that is involved in the present Writ Petitions is captured in the above order.

5. Heard Mr.P.Ganapathi Subramanian, learned counsel appearing for the Petitioners and Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents.

6. The learned Government Advocate appearing on behalf of the respondents produced the relevant Government Order and submitted that the registration of Contractors is governed by G.O.Ms.No.221, Public Works(G2)Department, dated 16.8.2018.

7. The Government Order that has been referred to by the learned Government Advocate consolidates all the earlier Government



Orders and has provided a procedure for registration of Contractors in the Public Works Department.

8. Nowhere in the above Government Order, there is a requirement that the person applying for registration as Class-I Contractors should undertake the work for a value of Rs.75 lakhs each year and for a continuous period of five years. It is not known from where the first respondent has made such stipulation while considering the applications submitted by the Petitioners. Therefore, the reason that has been given by the first respondent while rejecting the applications made by the Petitioners is not supported by any rules or Government Orders.

9. In the present case, the Petitioners are admittedly Class-II Contractors in Pudukkottai Municipality. They are awarded with contracts upto the value of Rs.75 lakhs. The Petitioners wanted to carry out works for more than the value of Rs.75 lakhs. Therefore, they have submitted their application to register themselves as Class-I Contractors. The first respondent ought to have considered the experience of the Petitioners and the work that has been carried out thus far and the requirements as per G.O.Ms.No.221, Public Works(G2)Department, dated 16.8.2018.. The first respondent cannot reject the applications by coming up with certain grounds which is not supported by the Government Order.

10. In view of the above discussion, the impugned letter issued by the first respondent, dated 18.5.2021, in each of the Writ Petitions, is hereby quashed. There shall be a direction to the first respondent to consider the applications submitted by the Petitioners and register their names as Class-I Contractors. This process shall be completed by the first respondent within a period of four weeks from the date of receipt of a copy of this order.

11. In the result, these Writ Petitions are allowed, with the above directions. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

Note :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 Engineer-in-Chief(WRO) ,
Chief Engineer(General) ,
Public Works Department,
Chepauk,
Chennai.

2.The Superintending Engineer,
Public Works Department,
Trichy

+1 CC to M/s.SPL GP (SR-23187[F] dated 19/07/2021)

W. P (MD) NOs.11304 and
11308 of 2021
16.07.2021

NSM(CO)
LR (26.07.2021) 4P 4C