



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.16382 of 2020

and

W.M.P. (MD)Nos.13699, 13700 and 13702 of 2020

M/s.S.M.T.Transports,
Represented by its
Managing Partner D.Gowsalya.

... Petitioner

Vs.

1.The Regional Manager,
Central Warehousing Corporation,
(A Govt. of India Undertaking),
Regional Office, No.4, North Avenue,
Srinagar Colony, Saidapet,
Chennai-600015.

2.M/s.Sree Sakthi and Co.,
Represented by its
Managing Partner,
Palanivel.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records connected to award of tender vide CWC/RO/CNI/HandTNGL/2020/21 in favour of respondent No.2 issued by the 1st respondent, communicated to the petitioner via E-mail dated 07.11.2020 and quash the same as illegal, consequently directing the respondent No.1 to award the tender to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.M.Kumar

For Respondents : Mr.R.Thirunavukarasu for R1
Mr.D.Shanmugaraj Sethupathi for R2

ORDER

Heard the learned counsel on either side.

2.The petitioner submitted his tender application in response to the tender notification issued by the first respondent on

<https://hcservices.ecourts.gov.in/hcservices/>



14.03.2020. The second respondent also took part in the tender process. The tender was in respect of awarding the contract for handling and transporting of food grains and allied materials etc. The contract in respect of Nagercoil was awarded in favour of the second respondent. The petitioner complains that he was actually be lowest tenderer and that the first respondent erred in awarding the impugned contract in favour of the second respondent. The first respondent as well as the second respondent filed their counter affidavits. The learned standing counsel for the first respondent drew my attention to the order dated 29.10.2020 in W.P.No.8708 of 2020 (A.S.P.T.Balakrishnan, S/o.A.S.P.Thirupathi Chettiar, Handling and Transport Contractor, 243/3, Ramayanpatti, Palani Road, Meenakshi Nayakkanpatti Post, Dindigul-624 002. Vs. The Regional Manager (Tamil Nadu), Central Warehousing Corporation, Regional Office, No.4, North Avenue, Sri Nagar Colony, Saidapet, Chennai-600 015 and Sree Balaji Transport rep. by its Partner - P.S.Selvaraj, S/o.P.S.Shanmugam, 10/3, Om Towers, Royal Theatre Opp. Road, Near Nalli Hospital, Erode-638 011). The contention now raised by the learned counsel for the petitioner was raised in the said writ petition also. The said contention was repelled by the learned Judge by referring to the tender clause, which reads as follows:-

"As per Public procurement policy on MSE, considering that this is a non-divisible tender, an MSE quoting in the price band of L1 + 15% will be awarded for full/complete work of tender, considering the spirit of policy for enhancing the government procurement from MSEs subject to bringing down of price to L1 rate after negotiation if any, by the MSE concerned"

3.The learned Judge after referring to the various case laws came to the conclusion that when the award is in terms of the tender terms and conditions, the question of interfering with the same by the Writ Court will not arise. Since the case on hand is squarely covered by the aforesaid decision, I find no ground to interfere. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

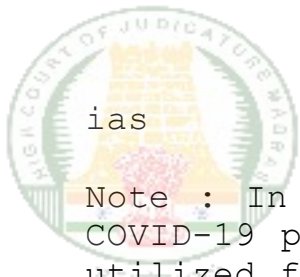
Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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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.

+1 CC to Mr.M.KUMAR, Advocate (SR-3709[F] dated 08/02/2021)

+1 CC to Mr.D.SHANMUGANATHA SETHUPATHI, Advocate (SR-3930[F] dated 09/02/2021)

**W.P (MD) No.16382 of 2020
05.02.2021**

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