



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.17057 of 2021

and

WMP(MD)Nos.13987 and 13988 of 2021

WEB COPY

Sikkandar Badhusha

... Petitioner

Vs.

1.The Chief General Manager,
Office of Chief General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Telecom Circle,
16 Greaves Road,
Chennai-600 006.

2.The General Manager,
Office of General Manager,
Bharat Sanchar Nigam Limited,
Madurai Business Area,
No.2, V.P.Rathinasamy Nadir Road,
B.B.Kulam, Madurai-625 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Tender Notice No.PC1-3-9/E-Tender/Externalplant-MTCE/TKM, KKN and ELW/Madurai Urban Area/MA BA 2021-22/1 dated 06.09.2021 on the file of the second respondent and quash the same as illegal and consequently forbear the first and second respondents from awarding the tender for maintenance of External Plant network in the Tallakulam, KK Nagar and Ellis Nagar Cluster.

For Petitioner : Mr.T.Lajapathi Roy

ORDER

The petitioner challenges a tender notice issued by the respondents herein in relation to maintenance work pertaining to land line and broad band services.

2.The petitioner states that he was the successful bidder in a tender floated by the respondents. Pursuant to the award of such contract, the petitioner was required to provide the maintenance of the external plant network in about five districts. The work related to the maintenance and provisioning of landline and broad band from the last pillar to the customer premises for a period of two years, which was extendable by a further one year. According to the



petitioner, the respondent did not make payments as required under the terms of the contract. Therefore, the performance of the petitioner was affected. In such circumstances, a termination notice was issued by the Assistant General Manager of BSNL on 16.08.2021. The said termination is the subject matter of arbitration proceedings initiated by the petitioner.

3. According to the petitioner, the respondents should have awaited the outcome of the arbitration proceedings. Instead, the respondents have floated the impugned tender under the impugned tender notice. In addition, the petitioner states that the relevant manual in relation to such tenders has not been adhered to in this case. The present writ petition is filed challenging the impugned tender notice in the said facts and circumstances.

4. The petitioner is aggrieved by the termination of the contract awarded to him by termination order dated 16.08.2021. Such termination is admittedly the subject matter of arbitration proceedings. Therefore, the petitioner's remedy as regards the contractual dispute with the respondent lies by way of such arbitration proceedings. The present challenge is to a tender floated for similar work by the respondents. Merely because arbitration proceedings are pending in relation to the cancellation of the contract awarded previously to the petitioner, the present tender cannot be interdicted. It is a separate matter that the petitioner is entitled to seek remedies in such arbitration proceedings and it is even possible that the decision in such proceedings may have an impact on the present tender.

5. Subject to the above observations, W.P.(MD)No.17057 of 2021 is dismissed by leaving it open to the petitioner to prosecute the pending arbitration proceedings in order to redress his grievance. There will be no order as to costs. Consequently, W.M.P.(MD) Nos.13987 and 13988 of 2021 are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Chief General Manager,
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B.B.Kulam, Madurai-625 002.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-29980[F] dated
23/09/2021)

**W.P (MD) No.17057 of 2021
21.09.2021**

RS (29.09.2021) 3P 4C