



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.01.2021
CORAM
THE HONOURABLE MR.JUSTICE **G.R. SWAMINATHAN**

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W.P. (MD)Nos.18111 and 18113 of 2020
and
W.M.P. (MD)Nos.15131, 15133 and 15134 of 2020

C.Kathiresan : Petitioner in both cases

Vs.

- 1.The Project Director,
The Nuclear Power Corporation of India Limited,
Kudankulam Nuclear Power Project,
Kudankulam Post, Radhapuram Taluk,
Tirunelveli District.
- 2.The Scientific Officer-E Centralised Tender Cell,
Kudankulam Nuclear Power Project,
Kudankulam Post, Radhapuram Taluk,
Tirunelveli District. : Respondents in both cases

PRAYER in W.P.(MD)No.18111 of 2020:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 27.11.2020 passed by the 2nd respondent by his impugned proceeding No.NPCIL/KKNPP/CTC/2020/S/2495 dated 27.11.2020 as the petitioner's tender has not been accepted by the Nuclear Power Corporation of India and quash the same as illegal and consequently to direct the 2nd respondent to include the petitioner's tender application for price bid for the work of E-tender in Reference No. NPCIL/KK-1-2/CONST/CIVIL-INFRA/PT/2020/74, called for by the 2nd respondent dated 04.08.2020 for raising of compound wall and construction of upper river boundary protection works of Anuvijay Township in Chettikulam Village, Radhapuram Taluk, Tirunelveli District.

PRAYER in W.P.(MD)No.18113 of 2020:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to forbear the respondents from rejecting the petitioner's tender application in E-tender Ref.No.NPCIL/KK-1-2/CONST/CIVIL-INFRA/PT/2020/35 dated 01.06.2020 for housekeeping works for infrastructure building outside the operating island of KKNPP 1 and 2 for the year 2020-22 of Kudankulam Village, Radhapuram Taluk, Tirunelveli District, as the petitioner has not met the requirement of having executed the works as Prime Contractor under clause 1.1 of NIT Pre-qualification criteria.



For Petitioner
For Respondents

:Mr.V.Sasi Kumar
:Mr.Ramasubramanian
(in both cases)

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COMMON ORDER

Heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondents.

2.Though the petitioner has filed two Writ Petitions against the respondent Corporation, the issue raised in both Writ Petitions is one and the same.

3.The petitioner is aggrieved by his disqualification at the technical stage itself. It is not in dispute that to take part in the impugned tender process, the intending bidder must have been a prime contractor and certain amount of experience. The petitioner's case is that he had done certain works directly for M/s.Reliance Infrastructure Limited.

4.Though the learned Standing Counsel for the respondent Corporation sought time to file counter affidavit, I am of the view that these Writ Petitions can be disposed of based on the materials available in the typed set of papers.

5.Even according to the petitioner, he had executed works for site enabling facility under M/s.Reliance Infrastructure Limited. M/s.Reliance Infrastructure Limited itself was a contractor for the respondent Corporation in the year 2018 and they had engaged the petitioner herein for carrying out a part of their contract works. It is obvious that the petitioner was only a sub contractor under M/s.Reliance Infrastructure Limited. The works were eventually for the benefit of the respondent Corporation.

6.There was no privity of contract between the petitioner and the respondent Corporation, when 2018 works were carried out. Therefore, the petitioner cannot claim the status of having worked as a prime contractor. The petitioner was rightly disqualified and no interference is called for. Accordingly, these Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)



Cmr

+2 CC to M/s.V.SASI KUMAR, Advocate (SR-1743, 1744[F] dated
22/01/2021)

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