



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.622 OF 2022

M/s.Alamelu Transport,
Rep. by its Proprietrix,
M.Deivanai

... Petitioner

.Vs.

1. The Secretary to Government of Tamil Nadu,
Department of Agricultural and Formers' welfare,
Fort St. George,
Chennai - 600 009.

2. The Director of Agriculture,
Ezhilagam, Chepauk,
Chennai - 600 005.

3. The Joint Director Agriculture,
Kattupudhukulam,
Pudukottai District - 622 001.

4. ASPT.Balakrishnan

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records of the 3rd respondent impugned letter No.Vu 4/6150/2021 dated 28.10.2021 and quash the same and consequently direct the respondents 1 to 3 herein re-evaluate the bid in respect of Transportation of Carrier based bio fertilizers and liquid bio fertilizers tender notification Ref.No.C4/5776/2021 dated 23.09.2021.

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.Arun,
Additional Advocate General
Assisted by
Mrs.C.Sangamithirai,
Special Government Pleader



O R D E R

The petitioner has filed this writ petition seeking quashment of the impugned order dated 28.10.2021 and direct the respondents 1 to 3 to evaluate the tender notification dated 23.09.2021.

2. The case of the petitioner is that he is a successful bidder, who has participated in tender called for on 18.08.2021. But the said tender was cancelled by the 2nd and 3rd respondents. Thereafter, a re-tender was called for by the 3rd respondent on 23.09.2021 in the Dinakaran Daily News Paper and the last date for receipt of Tender was on 01.10.2021. The petitioner, having satisfied the criteria of participation, submitted sealed Tender on 01.10.2021 with all the required documents. Though the technical bid ought to have been opened on 01.10.2021, the 3rd respondent has not opened the same, but merely obtained signatures from the four participants in the bid including the petitioner's representative. Thereafter, the 3rd respondent had sent the impugned letter No.Vu 4/6150/2021 dated 28.10.2021, rejecting the petitioner's bid by way of non-stated reference and refunded the earnest money deposit of Rs.1,00,000/-. Aggrieved by the same, the petitioner made a complaint before the 1st respondent and subsequently preferred a Writ Petition in W.P.No.23498 of 2021 before this Court. The same has been dismissed on 08.12.2021 and the petitioner has been granted liberty to challenge any order that might be passed by the 3rd respondent. Challenging the impugned order passed by the 3rd respondent, this Writ Petition has been filed.

3. The learned counsel appearing for the petitioner submits that the 3rd respondent has not complied with Section 10(7) of the Tamil Nadu Transparency in Tenders Act, 1998 in respect of Tender reference No.C4/5776/2021 dated 23.09.2021, which is only in favour of the 4th respondent whose tender has been accepted. So far, the result of the Tender has not been published in the website by the State Tender Bulletin Officer. Aggrieved by the same, the petitioner filed the present Writ Petition.

4. Heard the contentions of the learned Special Government Pleader.

5. This Court has perused the impugned order dated 28.10.2021, in which, the Joint Director Agriculture/ 3rd respondent has stated that as per Ref.1& 2, the petitioner



was not selected in the open Tender, hence the Earnest Money Deposit (EMD) for the said Tender has been refunded.

6. However, a perusal of the records reveal that the 3rd respondent has passed the impugned order without any clarity. Even in the said impugned order, the Tender date has been wrongly mentioned as 15.09.2021 instead of 23.09.2021. Therefore, this Court directed the 3rd respondent to appear before this Court. The 3rd respondent has appeared before this Court and submitted that he has inadvertently mentioned Ref.1 & 2 and admitted that the said order contains wrong information. He further, stated that no rejection order has been passed in respect of the petitioner.

7. In light of the above facts elicited from the 3rd respondent that the petitioner has been technically disqualified, and that no order of rejection has been passed against the petitioner regarding disqualification of technical bid. The challenge made by the petitioner to the impugned order passed by the 3rd respondent is sustainable.

8. Accordingly, the impugned order passed by the 3rd respondent dated 28.10.2021 is set aside and this Writ Petition is allowed. However, liberty is granted to the 3rd respondent to pass appropriate orders in accordance with law. No Costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

anu

To

1. The Secretary to Government of Tamil Nadu,
Department of Agricultural and Farmers' welfare,
Fort St. George,
Chennai - 600 009.
2. The Director of Agriculture,
Ezhilagam, Chepauk,
Chennai - 600 005.



3. The Joint Director Agriculture,
Kattupudhukulam,
Pudukottai District - 622 001.

WEB COPY

+1cc to Mr.S.Vijayakumar, Advocate, S.R.No.4345
+1cc to the Government Pleader, S.R.No.4701

W.P.NO.622 OF 2022

PMK (CO)
PBS/11/02/2022