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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.13732 of 2018
and

WMP No.16200 of 2018

C. P. Senthilkumar

...Petitioner

Vs.

1. The Principal Secretary to Government,
Highways Department,
Government of Tamil nadu,
Secretariat, Chennai 600 009.
2. Director General,
Highways Department,
Integrated Chief Engineers' office,
HRS Campus, 76 Sardar Patel Road,
Guindy, Chennai 600 025
3. Chief Engineer,
Highways Department,
Construction and Maintenance,
Integrated Chief Engineers' Office,
HRS Campus, 76 Sardar patel Road,
Guindy, Chennai 600 025
4. Superintending Engineer (H),
Construction and Management
Highways Department- Coimbatore Circle,
Coimbatore-18.
5. Superintending Engineer (H),
Construction and Management
Highways Department -Trichy Circle,
Trichy 20
6. M.Pandithurai,
Proprietor,
M/s. Hari Waylines,
No.346, Periyar nagar,
Rajagopalapuram,
Pudukottai.



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7. M/s. Rishi Enterprises,
Partnership Firm,
Rep. by its partners,
No.1028, Periyar Nagar,
Raja Gopalapuram,
Pudukottai.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in letter No.2893/TC/2017, dated 25.04.2018 on the file of the 2nd respondent, quash the same and consequently direct the respondents 1 to 5 to blacklist the respondents 6 and 7 preventing them from participating in the tenders of Highways Department either in individual name or part of any firm.

For Petitioner	: Mr. N. Sreenivasalu
For Respondents	: Mr. P. Ganesan, AGP, for R1 to R5.
	: Mr.R.N.Amarnath, for R6,
	: Mr. C.Johnson, for R7

O R D E R

This writ petition has been filed challenging the order of rejection passed by the second respondent .

2. According to the petitioner, the 6th respondent herein is a partner in a partnership firm, called, Rishi Enterprises/7th respondent, along with his wife P.Jayalakshmi. Apart from that, the 6th respondent is also having another proprietorship concern, by name, Hari Waylines at Pudukottai, and he got himself registered with the department. According to the petitioner, in the tender called for by the Highways Department, there is a clear condition that the contractor shall not be part of any other partnership firm, which takes part in tenders under the Highways Department. If any person, a partner of another firm, he is ineligible to participate in the tender. Now, the allegation is that, 6th respondent, who is one of the partners in the 7th respondent, has started another partnership firm and both the partnership firm are participating in the tenders called by the Highways Department. Hence, the petitioner made a representation to the authorities pointing out the same. Since his complaint has not been considered by the Highways Department, the petitioner approached this Court by way of writ



petition in W.P.No.26835 of 2017, seeking a direction to consider his representation and this Court by an order dated 07.02.2018, directed the 2nd respondent to consider the petitioner's representation and pass suitable orders, after hearing the parties. Pursuant to the same, the 2nd respondent passed the impugned order stating that 6th respondent already got released from the 7th respondent partnership firm and he started own partnership firm and he is no way connected with the 7th respondent. The respondents 6 and 7 are two separate partnership firms and there is no infirmity to him in participating in the tenders. Now, challenging the same, the present writ petition has been filed.

3. The 4th respondent filed a counter affidavit stating that pursuant to the order passed by this Court, a detailed enquiry was conducted, in which, both the petitioner and the respondents 6 & 7 were appeared and the 6th respondent produced the materials to show that he has retired from the 7th respondent partnership firm and started a new partnership firm in the year 2011 itself, and the 6th respondent has no connection with the 7th respondent firm. However, the petitioner could not produce any materials to show that, the 6th respondent still continuing in the 7th respondent firm. That apart, the 6th respondent also produced all papers ever since the released deed, dated 05.07.2011 and also produced the order passed by the Superintending Engineer, wherein he has accepted the release deed of the 6th respondent.

4. The learned counsel appearing for the respondents 6 and 7 also filed a counter affidavit stating that the 6th respondent already retired from the partnership firm in year 2011 itself, and thereafter, he started a own partnership firm and participating in the tenders.

5. The learned counsel for the petitioner submitted that the petitioner got an information from the Right Information Act stating that from the year 2015, both the companies are participating in the tenders. But, the petitioner is not in a position to substantiate his contention that the 6th respondent continued to be a partner in the 7th respondent firm.

6. The learned counsel for the respondents 6 and 7 produced the materials, in the form of typed set of papers, that the 6th respondent retired from the 7th respondent partnership firm and started a new partnership in the name of Hari Waylines, which is no way connected with the 7th respondent.

7. I have considered the submissions made on either side and perused the materials available on records carefully.



8. From the perusal of the records, it could be seen that even though the 6th respondent was originally a partner in the 7th respondent Firm, in the year 2011, he had retired from the Partnership Firm and started a new firm called Hari Waylines. The same was also considered by the Superintending Engineer, Coimbatore/4th respondent, and by an order, dated 05.07.2011, accepted the release deed and permitted the 6th respondent to participate in the tender. Though it is contended by the petitioner that the 6th respondent is continued to be in the 7th respondent, he is not able to produce any materials to substantiate same.

9. The 2nd respondent, after considering the entire materials, came to a conclusion that both the respondents 6 and 7 are separate Partnership Firms and there is no impediment to the 6th respondent in participating in the tenders. In the said circumstances, this Court finds no infirmity in the order passed by the 2nd respondent and there is no merit in the writ petition and the same deserves to be dismissed.

10. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Principal Secretary to Government,
Highways Department, Government of Tamil nadu,
Secretariat, Chennai 600 009.
2. Director General,
Highways Department,
Integrated Chief Engineers' office,
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3. Chief Engineer,
Highways Department,
Construction and Maintenance,
Integrated Chief Engineers' Office,
HRS Campus, 76 Sardar Patel Road,
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4. Superintending Engineer (H),
Construction and Management
Highways Department- Coimbatore Circle,
Coimbatore-18.

5. Superintending Engineer (H),
Construction and Management
Highways Department -Trichy Circle,
Trichy 20.

+1cc to the Government Pleader, S.R.No.21964

W.P.No.13732 of 2018

PM(CO)
RGA(20/05/2022)