



W.P.No. 5192 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.5192 of 2017

and

W.M.P.No. 5487 of 2017

Builders' Association of India,
State Office at Flat No.3,
New Door, No.5, Vidyodaya Main Road,
T.Nagar, Chennai 600 017, Rep by tis
State Chairman, M.Thirusangu

... Petitioner

VS.

1. State of Tamil Nadu
Rep. By its Secretary to Government,
Secretariat, Chennai 600 009.
2. The Special Chief Engineer (H), C&M,
Chennai Circle, Chennai 6.
3. The Superintending Engineer(H),
C&M Circle, Villupuram.
4. The Special Chief Engineer,
Highways Circle, C&M, Salem,
5. The Special Chief Engineer (H), C&M,
Coimbatore 18.



W.P.No. 5192 of 2017

WEB COPY

6. The Special Chief Engineer (H), C&M,
Madurai Circle, Madurai 2.
7. The Superintending Engineer,
National Highways,
Chennai Circle, Chennai 106.
8. The Superintending Engineer,
National Highways Circle,
Madurai -625 002.
9. The Superintending Engineer,
National Highways Circle, Omalur Main Road,
Narasothipatti, Alagapuram Post,
Salem 636 004.
10. The Special Chief Engineer,
National Highways Circle,
Tirunelveli.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of declaration, to declare the clause viz. “Current working condition certificate should be obtained from the Divisional Engineer (H) Quality Control concerned and enclosed along with the P.Q. Documents for the above equipments. If the above certificates not enclosed in the PQ document, the tender will be summarily rejected by the tender inviting authority.” as unfair and unreasonable for the works as mentioned in the Tender Notifications. ...



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W.P.No. 5192 of 2017

For Petitioner : Mr.Duraivyapuri
For Mr.S.Doraisamy

For Respondents : Mrs.V.Yamunadevi,
Special Government Pleader

ORDER

The petitioner which is an Association of Class - I Contractors engaged in road work and construction of building. The Highways Department while calling for the tenders for construction of roads had introduced a condition to the effect that the Contractors who want to participate in the tender should own certain machineries which are required for road laying. They should also produce a Certificate from the Divisional Engineer that such machinery is in working condition.

2. The petitioner would term that condition as onerous and seek a declaration that the condition is invalid. In the affidavit filed in support of the petition, the petitioner would contend that the condition facilitates corruption among the officials of the Department and therefore the condition should be set aside.

3/6



W.P.No. 5192 of 2017

3. I do not think that such a contention can be accepted. The condition has been imposed only in respect of Contract of road laying that too on class - I contractors, who were engaged in the works of very high value. The object for which the condition is imposed is that there is no delay in the project, particularly laying of roads, as it involves public convenience. If there is any malpractice in implementation of the condition, the petitioners can very well make a complaint to the higher authorities or to the Department of Vigilance and Anti Corruption. They cannot seek a declaration that the condition is invalid. The prayer sought for by the petitioner is like seeking to burn the house in order to kill the bed-bug.

4. I do not think such a prayer can be entertained. The writ petition therefore fails and it is accordingly dismissed. No costs.

07.07.2022

dsa

Index: No

Internet: Yes

Speaking order

4/6



W.P.No. 5192 of 2017

To

WEB COPY

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5/6



WEB COPY



W.P.No. 5192 of 2017

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