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W.P.No. 27604 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.27604 of 2022
WMP.Nos.26864 & 26866 of 2022

Olympick Marketing,
Rep. by its Proprietor:
D.Vijayakumar
Vallam Bangaru Street,
Purasavakkam, Chennai-07

...Petitioner

Vs.

- 1.The Registrar of Cooperative Societies,
NVN Maligai,
No.170, EVR Periyar High Road,
Kilpauk, Chennai-10
- 2.The Additional Registrar of Cooperative Societies,
Chennai region, St.Marys Road,
Raja Annamalaipuram, Chennai-28
- 3.The Deputy Registrar Cooperative
Societies (Non-Credit)
Kuralagam, Chennai-01
- 4.The Managing Director,
The Central Cooperative Printing Works Ltd.
No.83 & 95 Anna Salai,
Chennai-02

...Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records relating to the Tender Notification issued by the 4th respondent Tender No.CCP No.2022, CCO.No.204568 dated 29.09.2022 and quash the same.



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For Petitioner : Ms.P.Rajalakshmi for
M/s.L.P.Shanmugasundaram
For Respondents : Mr.K.V.Sajeev Kumar [R1 to R3]
Special Government Pleader
: No appearance for R4

ORDER

The petitioner has challenged a tender notification issued by the Managing Director, the Central Cooperative Printing Works Ltd./R2 in CCP.No.204568 dated 29.09.2022. When the matter had come up for admission on 14.10.2022, the following order was passed:

Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader accepts notice for R1 to R3 and Ms.Akila Rajendran, learned Government Advocate accepts notice for R4. They seek some time to obtain instructions and file counters.

2. The petitioner points out that the tender conditions are contrary to Rules 20 and 14 of the Tamil Nadu Transparency in Tender Rules, 2000, which stipulate respectively:-

i) that in respect of tenders in excess of Rs.2.00 Crores, the time for submission of bid shall be 30 days from date of tender. In the present case, the value of tender is Rs.2.5 Crores, but only notice of 15 days has been given.



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ii) *that earnest money deposit shall not be in excess of 1% of the tender value, which in this case is Rs.2,50,000/-. However, in the present case the deposit called for is a sum of Rs.5.00 lakhs.*

3. *List on 17.10.2022 at the end of admission list. Counter/written instructions by then with an advance copy served upon the petitioner.*

2. The matter was listed on 17.10.2022 to enable the respondents to file a reply. When the matter was called on 17.10.2022, there was no reply that was forthcoming from the respondents and hence, I had recorded that a prima facie case has been made in terms of the violation of the tender opening period as per Rule 20 of the Tamil Nadu Transparency in Tender Rules, 2000 (in short 'Rules') and had permitted the petitioner to submit the bid on or before 29.10.2022 and listed the matter today i.e. 04.11.2022.

3. Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for R1 to R3 would concede to the position that the time fixed for the tender, which is of a value in excess of two crores, ought to have been 30 days from the date of tender and the grant of only 15 days, at the initial instance, was incorrect.



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4. The question that would arise is as to whether this would vitiate tender itself. Having said so, it is only the present petitioner who has challenged the notification on this score, or at all, which is the point which appealed to this Court at the time of admission.

5. Taking note of this point, the petitioner was granted time till 29.10.2022, despite this, the petitioner has not submitted a bid till date. Learned counsel for the petitioner states that on 17.10.2022, a letter was filed seeking online access for submission of bid. However, letter dated 17.10.2022 does not reveal such request and this submission is misconceived. That apart, the tender notification provides for receipt of bids only by physical mode.

6. Learned counsel for the petitioner then submits that the petitioner has sent a further representation on 29.10.2022, which is the last date as granted by this Court for submission of bid, stating that the petitioner approached R2 on 27.10.2022 with his bid. This communication has been sent on 29.10.2022.

7. This is specifically denied in the counter filed by R3/the Deputy Registrar Cooperative Societies (Non-Credit), where at para 6 of the counter, they state as follows:



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6. *I state that in compliance of the order dated: 17.10.2022, the 4th respondent/The Managing Director, was readily available at office on 29.10.2022 till 6.00 p.m. and took all efforts to receive the bid from the petitioner. I state that the 4th respondent, has issued a letter to the petitioner on 29.10.2022 by 1.30 p.m. To the address given as in the affidavit, reminding him to submit his bid as directed by the Hon'ble Court. But the petitioner did not turn up. I wish to state that 4th respondent/ Managing Director, has taken all measures to serve the letter through Registered Post with Acknowledgment Due and also in person. But it was brought to light, that no such person by name Vijayakumar is residing in the address. The tracking of the RPAD also confirms that the petitioner is not residing in the above said address.*

8. The narration of facts as above establishes, unambiguously, to me that while there is an error in the procedure that has been followed by R4, the error has been sought to be corrected by this Court qua the petitioner, who had sought relief. However, the petitioner has not taken the benefit of the order passed by this Court on 14.10.2022 as seen from the narration above.

9. In light of the aforesaid, I see no reason to hold the tender up any further, particularly since the tender is for the printing of calendar and diaries for distribution to the employees of the Cooperative Societies in relation to the year 2023.



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DR.ANITA SUMANTH, J.

10. This writ petition is dismissed. No costs. Connected miscellaneous petitions are closed.

04.11.2022

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Index : Yes/No

Speaking Order

To

- 1.The Registrar of Cooperative Societies,
NVN Maligai,
No.170, EVR Periyar High Road,
Kilpauk, Chennai-10
- 2.The Additional Registrar of Cooperative Societies,
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