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WP.Nos.25195 & 25196 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.Nos.25195 & 25196 of 2017 &

WMP.Nso.26637, 26638 & 26639 of 2017

M/s.Trinity Contracts and Services,
Rep. by its Partner M.Sumitha
No.6, Adirayar Street, Umayalpuram,
Chrompet, Chennai – 600 044.

... Petitioner in both WPs

Vs

The Superintending Engineer,
Civil Design & Hydro Projects,
Tamil Nadu Generation and Distribution
Corporation, 4th Floor, NPKRR Maaligai,
144, Anna Salai, Chennai – 600 002.

... Respondents in both WPs

Prayer:- Writ Petitions filed under the Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records of the respondent relating to her proceedings in Lr.No.SE/CD & HP/EA/F.Reg. Of Con/D.325/17 dated 29.08.2017 and Lr.No.CE/Tr.P-I/EE/E/AEE/C/ F/TPI – 42/16/17/LOA.No.15/17-18/D.No.1202/17 dated 28.08.2017 respectively and quash the same as illegal and without jurisdiction.



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For Petitioner : Mr.K.Sasindran

For Respondent : Mr.S.Madhyoondaran
Standing Counsel for the respondent

COMMON ORDER

These Writ Petitions have been filed to challenging the proceedings of the respondent cancelling the contract awarded to the petitioner in Lr.No.SE/CD & HP/EA/F.Reg. Of Con/D.325/17 dated 29.08.2017 and Lr.No.CE/Tr.P-I/EE/E/AEE/C/ F/TPI – 42/16/17/LOA.No.15/17-18/ D.No. 1202/17 dated 28.08.2017 respectively as illegal and without jurisdiction.

2. The petitioner is a firm registered under Indian Partnership Act. The petitioner was awarded with a work contract for reconstruction of a collapsed wall with pile and RCC walls at Sozhinganallur Chennai. The petitioner was a successful bidder of the contract and already they had already completed 60% of the work. While so, on the basis of a false



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complaint sent by the rival contractor, the impugned Order has been passed

without giving any opportunity to the petitioner. Hence, the present Writ Petition has been filed.

3. Whereas, the respondent has filed the counter stating that the petitioner claimed itself as a State Level Class I contractor in the High Ways Department and has produced the proceedings of Special Chief Engineer [Highways] Construction and Maintenance, Villupuram dated 01.03.2016 to that effect. However, after awarding the contract, it came to light that the petitioner is a partnership firm and partners are spouses of Assistant Executive Engineers/Civil working in Chennai Development Circles of the TANGEDCO and TANTRANSCO and the business has been carried out by them and thereby they had failed to comply the mandate under regulation 14 [b] of the Tamil Nadu Employees Conduct Regulations. Accordingly, the contract has been cancelled.

4. The learned counsel appearing for the petitioner would submit that the petitioner had completed almost 60% of work to the tune of Rs.42 lakhs.



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On the basis of the complaint from the rival contractor, the impugned Order has been passed even without granting any opportunity to the petitioner. Hence, seeks to quash the impugned Order.

5. It is the contention of the learned counsel appearing for the respondent that the partners are spouses of working Engineers and they had carried out the business without obtaining permission from the Board of the respondent. On the basis of the enquiry, contract has been cancelled.

6. On a perusal of the entire materials, it is not in dispute about the work completed by the petitioner. According to the respondent, the petitioner had completed work to the tune of Rs.44 lakhs. Whereas, according to the petitioner, they had completed work to the tune of Rs.54 lakhs. Be that as it may.

7. It is not the case of the respondent that there was no work entrusted to the petitioner or any violation of the contractual conditions. It is the contention of the learned counsel appearing for the petitioner that after completion of 60% of the work by the petitioner, the impugned Order has



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has been passed on 29.08.2007 cancelling the contract due to administrative reasons. The impugned Order does not even indicate the reasons for cancelling the contract and the impugned Order also does not indicate any notice served or whether any opportunity given to the petitioner. Without giving notice or affording any opportunity to the petitioner, the contract has been cancelled on the basis of administrative reasons and the impugned Order also does not indicate what was the administrative reason for cancelling the contract. Hence, the impugned Orders are clear violation of natural justice and cannot hold good in the eye of law.

8. Accordingly, the impugned Orders are set aside and these Writ Petitions are allowed. At this stage, the learned counsel appearing for the petitioner submitted that they have not received the payment for the work completed and the same is pending consideration before the Vigilance Department. It is relevant to note that when the quality of the work and nature of the work completed by the petitioner has not been disputed, the respondent shall pay the amount for the work completed by the petitioner. If they want to take any further action against the petitioner, the respondent



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shall afford opportunity of hearing to the petitioner and proceed as per law

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Consequently, connected miscellaneous petitions are closed. No costs.

04.11.2022

vrc

To,

The Superintending Engineer,
Civil Design & Hydro Projects,
Tamil Nadu Generation and Distribution
Corporation, 4th Floor, NPKRR Maaligai,
144, Anna Salai, Chennai – 600 002.



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