



W.P(MD)No.4613 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 08.09.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.4613 of 2021

and

W.M.P(MD)No.3710 of 2021

PMT Mohan & Company,
Rep.by its Partner,
P.M.T.Mohan
S/o.Thalai Muthambalam,
5/758, Othaveedu,
Aandarkottaram Post,
Madurai-625 020.

..Petitioner

Vs

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Chief Engineer,
Madurai Corporation,
Madurai.

3.Mr.Arasu,
Chief Engineer,
Madurai Corporation,
Madurai.

4.P.Murali

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from proceedings with any process in Tender Reference No.Ma.Po.2/Est948/19-20 on the file of the first respondent without considering the tender submitted by the petitioner on 10.02.2021.



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For Petitioner : Mr.G.Prabhu Rajadurai

For R1 to R3 : Mr.R.Murali
Standing Counsel

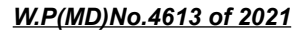
For R4 : Mr.A.Srinivasan

ORDER

This Writ Petition is filed seeking a direction to forbear the respondents from proceeding with any process in Tender Reference No.Ma.Po.2/Est948/19-20, on the file of the first respondent without considering the tender submitted by the petitioner on 10.02.2021.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The learned counsel appearing for the petitioner would submit that the petitioner is the partner in PMT Mohan & Company, which is a registered firm. The petitioner is the first class contractor and as such registered with the Highways Department under Registration No. 3/2020-2021. He was doing contract works in his personal capacity in various Departments under the Government. He carried out various works for the respondent corporation upto the level of Rs.55 lakhs. For the Highways Department, he carried out works upto Rs.2 crores. He



4. He would further submit that the petitioner submitted an online application on 10.02.2021 at Rs.1,00,000/- less than the tender value i.e., Rs.32,71,136/-. The tender was accepted through online along with the scanned copy of the Demand Draft for the payment of EMD. The second respondent has not opened the tender on 12.02.2021 and subsequently, the second respondent negotiated with the petitioner to withdraw the tender application on more than two occasions, but he did not agree. He came to know that the second respondent is inclining to grant the contract in respect of the fourth respondent. He would submit that the tender was finalized in favour of the fourth respondent. The authorities have not issued any communication to the petitioner for rejecting the application of the petitioner and the entire process is illegal as it is done in secrecy and with lack of transparency. Hence the present Writ Petition for the relief stated supra.



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5. When the matter is taken up for hearing today, the learned Standing counsel appearing for the respondents 1 to 3 would submit that already the tender was allotted to the fourth respondent, namely, Mr.P.Murali, by order, dated 22.02.2021 in Ref.No.ம.பொ.2/ம.எண்.948/20-21 and the work was also allotted to him for laying the PTR cross-street road and 30 days time was also fixed to complete the work. He would further submit that the fourth respondent has completed the work within the time fixed by the Corporation and the Writ Petition has become infructuous and hence, nothing survives for adjudication herein.

6. In view of the submission made by the learned Standing Counsel appearing for the respondents 1 to 3, this writ petition is dismissed as infructuous. No costs. Consequently, connected miscellaneous petition is closed. The respondents Corporation is directed to return the EMD amount, if any, to the petitioner.

7. The petitioner made an application on 20.10.2021 to the respondents 1 to 3 to register himself as a contractor. The non-inclusion of the petitioner's name in the respondents' corporation as a registered contractor was a reason for not accepting his tender. Therefore, the respondents are directed to consider his representation of the petitioner,



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dated 20.10.2021 for including him as a contractor and pass appropriate orders on his representation.

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Index : Yes/No

Internet:Yes/No

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To

- 1.The Commissioner,
Madurai Corporation,
Madurai.
- 2.The Chief Engineer,
Madurai Corporation,
Madurai.



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V.BHAVANI SUBBAROYAN,J.

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ORDER MADE IN

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08.09.2022