



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9446 of 2022

and

WMP(MD)Nos.6775, 6776 & 7313 of 2022

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... Petitioner

v.

1.The Principal Secretary to Government,
Highways and Minor Ports Department,
Fort St.George, Secretariat,
Chennai – 600 009.

2.The Chief Engineer (Highways),
Construction and Maintenance,
Integrated Chief Engineer's Office,
HRS Campus, 70, Sardar Patel Road,
Guindy, Chennai – 625 025.

3.The Superintending Engineer (Highways),
Construction and Maintenance Circle,
149, A.R.Lane Road,
Tirunelveli – 627 002.

4.MJD Construction and Engineering
Contracts Pvt Ltd.,
Rep.through its Managing Director,
5/112-B, Main Road, Kannumamoodu,
Palugal, Kanyakumari – 629 170

...Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 3rd respondent in connection with the impugned rejection dated 26.04.2022 updated through official website with regard to the Tender Notification issued by him vide Tender Notice No.32/2021-2022/HDO dated 25.02.2022 in respect of item No.3 that is TNV-89 in so far as the petitioner is concerned and quash the same as illegal and arbitrary by cancelling the work order given to the 4th respondent and consequently direct the respondents 1 to 3 to allot the work order to petitioner for the above said tender within a time limit that may be stipulated by this Court.

For Petitioner : Mr.S.R.Rajagopal
for Mr.G.Thalaimutharasu

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General
assisted by Mr.M.Prakash,
Additional Government Pleader for R1 to R3

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the official respondents.

2.The third respondent issued tender notification dated 25.02.2022 calling for the works of widening and improvement of Thuckalay (H) C&M



Sub-Division (TNV-89) road. The last date for submission of tender documents was on 04.04.2022 at 02.00 P.M. This was extended up to 05.04.2022. The petitioner herein was one of the applicants. The technical bids were to be originally opened on 05.04.2022 at 01.00 P.M. This was extended to 19.04.2022. On 19.04.2022, the technical bids were opened. Though in the e-portal it was originally mentioned that the petitioner's bid was accepted, on 26.04.2022 the status of the petitioner's technical bid was mentioned as rejected. Aggrieved by the rejection order, this writ petition came to be filed.

3. Interim order was granted in favour of the petitioner on 05.05.2022. The respondents have filed their detailed counter affidavit and the learned Additional Advocate General for the official respondents took me through their contents.

4. I carefully considered the rival contentions and went through the materials on record. This writ petition can be disposed of on a short ground. As per Clause 2.2.1(iii), the tenderer must have the previous experience as set out in the said clause. The said clause is as under :

"This experience in similar nature of work should also include the following minimum quantities of works completed in



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any one year during the last five years. The important/major items involved in the works warrants pre-qualification, may be prescribed as rundean's fit.

1	Earth Work	5194.14	Cum
2	BM/DBM	942.00	Cum
3	BC	577.00	Cum
4	PCC/VCC	1732.00	Cum

The applicant will indicate the details of work executed project wise and year wise in a summary sheet separately."

5.The learned Additional Advocate General appearing for the official respondents submitted that the petitioner is lacking previous experience as set out in Serial No.4. In other words, according to the official respondents, the petitioner does not have the experience of having done the PCC/VCC to the extent of 1732.00 Cum. The details as set out in the petitioner's notes and submissions are as follows :

Year	PCC/VCC
2016-2017	nil
2017-2018	312.21
2018-2019	1019.12
2019-2020	1671.16
2020-2021	NIL
5 years	3002.49



6. On the own showing of the petitioner, it is clear that the previous experience criteria has not been fulfilled by the petitioner. Hence, I do not find any ground to grant relief to the petitioner. This writ petition stands dismissed. No costs. Connected miscellaneous petitions are closed.

26.07.2022

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To

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G.R.SWAMINATHAN, J.

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25.07.2022