



WEB COPY



W.P.No.902 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.902 of 2023
and WMP.Nos.879 & 880 of 2023

M/s.SM Constructions
Rep by its Proprietor S.M.Selvam
No.1/57, Keelur
Somanahalli Post
Nallampalli Taluk
Dharmapuri District – 636 803.

... Petitioner

Vs

1.The Superintending Engineer (H)
C & M, Salem Circle
Salem.

2.The Divisional Engineer (Highways)
Quality Control
Salem.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent rejecting the petitioner's tender on 02.01.2023 tender reference No.24/2022-2023/HDO, dated 19.11.2022-1(sic), Special Repairs to Government Road, Dharmapuri (h) C&M Sub Division (SLM-116), quash the same and consequently, direct the first respondent to include the petitioner tender along with other tenders for consideration of price bid.



WEB COPY



W.P.No.902 of 2023

For Petitioner : Mr.M.S.Palaniswamy

For Respondents : Mr.Bindran
Additional Government Pleader of R1, R2

ORDER

The petitioner herein challenges the proceedings of the first respondent dated 02.01.2023, rejecting its tender. The impugned proceedings states that the petitioner has not furnished the plan working tender certificate.

2. The intended contract pertains to maintenance of road. The learned Additional Government Pleader appearing for the respondents files his counter and makes a statement that the tender process has been completed and the one to whom the contract was awarded, has also completed the project in April 2023, and hence, nothing survives for consideration in this writ petition.

3. The learned counsel for the petitioner submitted that this Court has passed an order of stay on 11.01.2023, making the entire exercise subject to the outcome of this litigation, but the respondents have hurried to complete



W.P.No.902 of 2023

the tender process and today they make a statement that the contract itself has been fully performed. He submitted that the very rejection of the petitioner's offer in response to the tender itself is malafide made to promote and benefit some other contractors.

4. This Court does not want to engage in ascertaining the truth or the correctness of the allegation made by the petitioner. If the petitioner's tender has been wrongly rejected by a malafide action, it is not irremediable in law as he has other avenues. So far as the present case is concerned, the tender relates to maintenance of certain road and this Court does not chose to stay the very tender or injunct the working of the contract awarded, based on the tender. In this circumstances, the contractor has also completed the project, and whatever that he has done and the money he has invested cannot be ignored by this Court. Therefore, in fitness of things this Court directs the petitioner to work out such other remedies available to him in law, if he has been affected by any malafide action of the first respondent in rejecting its tender.



W.P.No.902 of 2023

5. The petition is accordingly disposed of. No costs. Consequently,
connected miscellaneous petition is closed.

11.07.2023

Index : Yes / No
ds

To:

- 1.The Superintending Engineer (H)
C & M, Salem Circle
Salem.
- 2.The Divisional Engineer (Highways)
Quality Control
Salem.



WEB COPY



W.P.No.902 of 2023

N.SESHASAYEE.J.,

ds

W.P.No.902 of 2023

11.07.2023