



WEB COPY



W.P.No.3592 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2023

CORAM

THE HON'BLE MR. JUSTICE C. V. KARTHIKEYAN

Writ Petition No.3592 of 2023

and

Writ Miscellaneous Petition No.3658 of 2023

M/s.World Wide Services,
Represented by its Authorised Signatory
Mr.J.Murugesan,
Having registered office at
Plot No.09, Hoshangabad Road,
Shiv Shakthi Nagar,
Bhopal, Madhya Pradesh -462 026.

... Petitioner

Versus

1. State of Tamil Nadu,
Represented by its Additional Secretary,
Government of Tamil Nadu,
Secretariat, St. George Fort,
Chennai.
2. The Home Secretary,
Government of Tamil Nadu,
Secretariat, St. George Fort,
Chennai.
3. The Commissioner of Police,
Greater Chennai Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Chennai 600 007.



W.P.No.3592 of 2023

4. The Deputy Commissioner of Police,
(Head Quarters)
Tender Inviting Authority,
Greater Chennai Police,
No.132, Commissioner Office Building,
Evk Sampath Road,
Vepery, Chennai – 600 007.

... 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 relating to the impugned Tender issued by the 4th respondent in RFP No.C.No.MPF-1/85441/2015 dated 14-12-2022 and quash the same as illegal and arbitrary and consequently directing the 4th respondent to issue request for proposal in accordance with law.

For Petitioner : Mr.K.Suresh

For R1 & R2 : Mr.T.Seenivasan,
Special Government Pleader
For Ms.Shakeenaa A.G.

For R3 & R4 : Mr.R.Shunmuga Sundaram,
Advocate General
Assisted by
Mr.N.S.Suganthan,
Government Advocate (Crl.Side)

ORDER

The Writ Petition has been filed in the nature of a Writ of Certiorarified Mandamus seeking records relating to a tender issued by



W.P.No.3592 of 2023

the 4th respondent, the Deputy Commissioner of Police (Head Quarters),
Tender Inviting Authority at Chennai in RFP.No.C.No.MPF-
1/85441/2015 dated 14.12.2022 and quash the same and further direct the
said 4th respondent to issue a request for proposal in accordance with law.

2. The petitioner M/s. World Wide Services, having office at
Madhya Pradesh had filed the present Writ Petition seeking
aforementioned relief. They are concerned with the tender, which had
been floated by the 4th respondent for selection of System Integrator to
Design, Supply, install, commission and manage the “Modernisation of
Control Room with Command, Control, Communication & Intelligence
(3Ci) Operations Centre” and “Surveillance Solution” for Chennai City
towards Mega City Policing Project under Modernisation of Police Force
Scheme.

3. The said tender was issued on 14.12.2022. Bids were invited for
the aforementioned projects. The date and time for submission of bids
had been fixed on 04.01.2023. Later, the date for submission of bids was
extended till 25.01.2023, by a Corrigendum.



W.P.No.3592 of 2023

4. The grievance of the petitioner is that this particular bid had not been published in the Indian Trade Journal.

5. The learned counsel for the petitioner places reliance on Section 9(3) of the Tamil Nadu Transparency in Tenders Act, 1998 and Rule 11 of the said Act.

6. It is claimed by the petitioner that the petitioner had been prejudiced since he was not aware of the calling for the bids and that he came to know about the bid only two days prior to the filing of the Writ Petition and thereafter, had ascertained that the matter had not been published in the Indian Trade Journal.

7. Placing that particular ground, the Writ Petitioner now seeks to scuttle the entire tender process.

8. The learned Advocate General who had been instructed to appear on behalf of the respondents however, disputed the contentions raised. It is fairly stated that Rule 9(3) of the Tamil Nadu Transparency



W.P.No.3592 of 2023

in Tenders Act, 1998 is still in force. But, it is the contention of the learned Advocate General, that subsequently in the year 2017, on 31.05.2017, a communication had been issued by the Central Government wherein, to a little extent, publication in Indian Trade Journal had been dispensed with and had not been made mandatory.

9. To this contention, it is stated by the learned counsel for the petitioner that a circular cannot override a provision in the Statute.

10. The learned counsel for the petitioner also places reliance on a Judgment of a learned Single Judge of this Court in ***W.P.Nos.17261, 18987 and 18988 of 2017 dated 11.08.2017 [Sri Venkatram Spinners Pvt. Ltd., and another vs. State of Tamil Nadu, represented by the Principal Secretary, Department of Handloom and Textiles and others]***.

11. One of the challenges in that particular Writ Petition was failure to publish the bid in the Indian Trade Journal and the learned Single Judge was of the opinion that, it was a mandatory requirement and



W.P.No.3592 of 2023

had also placed reliance on the order of a Division Bench of the Karnataka High Court and therefore, had stated that the invitation for tender in that case was not proper and not in accordance with the provision of law.

12. The learned Advocate General however pointed out that there was a different view taken by the another learned single Judge of this Court in ***W.P.Nos.4357 & 4389 of 2021 [Ind-Vigo Coal Pvt., Ltd and Others vs. Tamil Nadu Electricity Generation and Distribution Company Ltd., and others]***. Even in that case, one of the challenges laid was failure to publish the notice inviting tenders in the Indian Trade Journal.

13. The learned Judge also referred to the aforementioned order ***Sri Venkatram Spinners Pvt. Ltd.***, (referred supra) but however came to an opinion that there was a need for uninterrupted supply of Coal for Thermal Power Plant with the calorific value, and that it was a critical tender, was of the opinion that since it is a curable defect, the publication can be subsequently effected.



W.P.No.3592 of 2023

14. The learned Advocate General also forwarded the number of participants who had submitted their bids. It is seen from a perusal of that particular data that as many as 34 participants had participated in the bid. They were not restricted to Chennai but had come from all over the Country and thereafter, further processes had been initiated by the respondents. It was also informed that four of the tenders had dropped their physical bids in the tender drop box and submitted on-line bids. Those details had also been given.

15. It was also stated that preliminary examination of the bids submitted by the bidders had also been done. A decision had also been taken to accept/reject some of the bids. It was also stated that the Tender Scrutiny Committee had also met on 03.02.2023 and had reviewed all the documents and had shortlisted three bidders for further technical evaluation stage. It is thus seen that the process had moved much to a substantial distance.

16. The issue now revolves as to whether the petitioner had been bonafide in coming to the Court after the process had started. If he had



W.P.No.3592 of 2023

approached the Court even before the process for opening of the bids had commenced, then, he could have raised a reasonable ground that he is prejudiced and that his bid should also be put for consideration.

17. But now, the respondents have moved much further. Those who had submitted the bids, had also submitted their documents to be examined and scrutinized by the respondents herein. Such scrutiny has been done. Three of the bidders have been shortlisted for technical evaluation. They would be seriously prejudiced.

18. As a matter of fact, all the other parties who had submitted their bids would also be seriously prejudiced. These factors will also have to be weighed in the mind of this Court. No doubt, it is a fact that the 4th respondent had not published in the Indian Trade Journal. But once there are too different or slightly distinguishing views presented by learned single Judges on this particular aspect, the Court will have to examine whether there are any further circumstances on the facts of this case to take a specific view.



W.P.No.3592 of 2023

bidders have been shortlisted. Their interest, overrides the interest of the petitioner herein. The petitioner had not even participated. He claims that he could not participate only because the bid had not been published in the Indian Trade Journal. But it is seen from the data provided by the learned Advocate General that, there had been substantial participation and interest shown in participating in the tender committed.

21. The Court cannot sit as an Appellate Authority while sitting in Writ jurisdiction. The scales will have to be weighed. In this case, the scale swings infavour of the three bidders, whose bids have been scrutinized and who have been shortlisted by the respondent herein. It also swings in favour of the 4th respondent since, publication has been done and they had also put it up in the website.

22. The petitioner claims that he alone stands prejudiced. That argument takes the petitioner nowhere. It is certainly not the intention of the 4th respondent to ensure that the petitioner and the petitioner alone does not participate. It is an open bid. Anybody and everybody who is interested and who is vigilant can always participate. The non-



W.P.No.3592 of 2023

publication in the Indian Trade Journal is not directed against the petitioner individually.

23. No doubt, it has not been done, but the bid has progressed far more than the initial stage.

24. I am not inclined to even admit the Writ Petition.

25. The Writ Petition stands dismissed. No order as to costs. Consequently, the connected miscellaneous petition stands closed.

08.02.2023

ssi

Index : Yes/No

Internet : Yes/No

Neutral Citation Case: Yes/No



W.P.No.3592 of 2023

WEB COPY

To:

1. State of Tamil Nadu,
Represented by its Additional Secretary,
Government of Tamil Nadu,
Secretariat, St. George Fort,
Chennai.
2. The Home Secretary,
Government of Tamil Nadu,
Secretariat, St. George Fort,
Chennai.
3. The Commissioner of Police,
Greater Chennai Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Chennai 600 007.
4. The Deputy Commissioner of Police,
(Head Quarters)
Tender Inviting Authority,
Greater Chennai Police,
No.132, Commissioner Office Building,
Evk Sampath Road,
Vepery, Chennai – 600 007.



WEB COPY



W.P.No.3592 of 2023

C.V.KARTHIKEYAN,J.

ssi

W.P.No.3592 of 2023
and
W.M.P.No.3658 of 2023

08.02.2023