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W.P.No.17784 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.17784 of 2016
and W.M.P.Nos.15466 to 15468 of 2016

M/s.Tarpaulins India Tarp (P) Ltd.,
Represented by its Director,
264, Azad Market,
Delhi – 110 006.

.. Petitioner

vs

Tamil Nadu Civil Supplies Corporation,
Rep. By its Managing Director,
Tamil Nadu Civil Supplies Corporation,
Head Office No.12, Thambusamy Road,
Kilpauk, Chennai – 600 010.

.. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the order Rc.No.QC1/46543/2011 dated 12.06.2012 passed by the respondent and order Rc.No.QC1/46453/2011 dated 19.06.2012 passed by the respondent and quash the same and consequently direct the respond to refund the security deposit that has been forfeited by the respondent to the petitioner.

For Petitioner : Mr.Prem Chandar
for Ms.S.Varaha

For Respondent : Dr.K.Thirugnanam



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ORDER

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The petitioner is a Company engaged in the manufacture of tarpaulins and polythene covers. It participates in tenders floated by entities including Government undertakings for supply of various kind of tarpaulins and polythene covers.

2. The Tamil Nadu Civil Supplies Corporation, sole respondent, had floated a tender for supply of 6000 numbers of Low Density Black Polyethylene (LDBP) covers vide tender document proceedings bearing No.REF NO. QC1/46453/11 dated 29.06.2011. The petitioner was successful and an order was placed upon it.

3. An agreement had been entered into between the petitioner and the respondent on 10.10.2011. Thereafter, there was a suspicion of mis-declaration in the application filed by the petitioner on 30.07.2011. Such alleged mis-declaration related to the blacklisting or otherwise of the applicant for which purpose a certification in the nature of annexure had to accompany each application.

4. Annexure III is the format of certificate which is to be



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executed by the tenderer to the effect that it had been blacklisted either by the respondent or any of the Government undertakings / Officers. Admittedly, the applications submitted by the petitioner on 30.07.2011 contained a certificate, endorsing the petitioner positively, reading thus:-

" ANNEXURE III
CERTIFICATE
CERTIFIED THAT M/S TARPAULINS INDIA
TARP PRIVATE LIMITED COMPANY IN WHICH
TENDERER IS A SHARE HOLDER HAD NOT
BEEN BLACK LISTED EITHER BY TNCSC
LIMITED EARLIER OR BY ANY OTHER
GOVERNMENT UNDERTAKIN/OFFICES.

SD/-
SIGNATURE OF TENDERER"

5. The certification was found to be false insofar as the Government of Haryana had passed an order of blacklisting as against the petitioner as early as on 05.10.2010 which the petitioners had admittedly suppressed while filing the present application. The order had been passed on 05.10.2010 which came to be challenged in C.W.P.No.506 of 2011 before the Punjab and Haryana High Court and Chandigarh.

6. Upon the strength of assertion of both learned counsel for the petitioner and respondent to the effect that there was no



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stay of that order pending that writ petition, this Court proceeds on said basis. Thus, it is incumbent upon the petitioner to have made a full and true disclosure in regard to the order of blacklisting dated 05.10.2010. The certification annexed to the application filed by the petitioner asserts otherwise and to this extent, I am in agreement with the respondent that there was mis-declaration by the petitioner for which it would have to face the consequences.

7. Such consequences are two fold. The first relates to one facet of the impugned order in terms of which the respondent has blacklisted the petitioner for a period of five years i.e., between 19.06.2012 and 18.06.2017. Since the period of black listing has long gone and in fact the petitioner and the respondent had been engaged in business pending writ petition on account of interim order granted by this Court on 12.05.2016, the impugned order is hardly of any effect now. The present position will continue and there is no bar on the petitioner continuing to respond to call tenders from the respondents. Needless to state, selection will be in accordance with law and the terms of tender.

8. As regards the second facet of the impugned order per which the Security Deposit and Earnest Money deposited by the



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petitioner stood forfeited, in light of the admitted and evident mis-declaration qua blacklisting, forfeiture of such security deposit and EMD is found to be appropriate and there is nothing untoward in the same.

9. This writ petition is ordered in the aforesaid terms. To reiterate, the order of blacklisting has, with the efflux of time, expired and there is nothing more to be said in this regard. The forfeiture of EMD and security deposit is found to be in order and hence upheld. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To

The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Head Office No.12, Thambusamy Road,
Kilpauk, Chennai – 600 010.



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DR. ANITA SUMANTH,J.

ssm

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