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W.P.No.9712 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.9712 of 2023

P.Thirumoorthy

...Petitioner

Vs.

1. The Chief Engineer / Distribution,
Chennai South Region,
No.5A Block, 144,
Anna Salai, Chennai - 600 002.

2. The Superintending Engineer Chennai Development Circle/
TANGEDCO,
A 10, Thiruvika-Vi-Ka Industrial Estate,
Guindy, Chennai - 600 032.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to pre-close the tender award dated 14/09/2018 vide Lr.No.CE/D/CSR/EEC/AEE/F.SPECN -C.649/AL-22(2018-19)/D.402/2018 and return the EMD Amount of Rs.83,000/- (Rupees Eighty Three Thousand only) to the petitioner together with the interest liability of Rs.43,471/- (Rupees Forty three thousand four hundred and seventy one only) incurred by the petitioner in furnishing bank guarantee and the GST amount of Rs.2,70,912/- (Rupees Two lakhs seventy thousand nine hundred and twelve only) paid by the petitioner.

For Petitioner : Mr.V.Chandrababu



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For Respondents : Mr.L.Jaivenkatesh

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ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Mandamus to direct the 1st respondent to pre-close the tender award dated 14/09/2018 vide Lr.No.CE/D/CSR/EEC/AEE/F.SPECN-C.649/AL-22 (2018-19)/D.402/2018 and return the EMD Amount to the petitioner along with the interest liability incurred by the petitioner in furnishing bank guarantee and the GST amount paid by the petitioner.

2. The case of the petitioner is that he took part in the E tender floated by the 1st respondent for the construction of control room building for establishment of 33/11 KV indoor SS at the premises of existing Nanganallur 33/11 KV SS and came out successful. Though the tender was confirmed in his name and the petitioner had provided bank guarantee for a sum of Rs.3,73,320/-, the respondents neither allotted the sites to the petitioner to comply with the tender nor refunded the earnest money deposit to the petitioner citing closure of tender, despite the several letters sent by the petitioner, requesting to either handover the site or return the EMD amount by pre-closing the agreement or enhance the rates by 20%. While so,

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the 1st respondent, vide letter dated 11.06.2020, directed the petitioner to extend the bank guarantee for a further period of one year and upon receipt of the said letter, though the petitioner sent a reply dated 17.06.2020, seeking to pre-close the award and return the amounts paid by the petitioner, since there is a huge delay in handing over the site and since the department is not coming forward to enhance the agreed rates, which evoked no response and till date, the respondents have not returned the EMD and GST amount to the petitioner. Hence, this Writ petition.

3. Though very many grounds have been raised, learned counsel for the petitioner submits that, it would suffice, if this Court issues direction to the 1st respondent to pre-close the tender award dated 14/09/2018 and return the EMD Amount of Rs.83,000/- together with the interest liability of Rs.43,471/- incurred by the petitioner in furnishing bank guarantee and also the GST amount of Rs.2,70,912/- paid by the petitioner, as expeditiously as possible.

4. Learned Standing counsel appearing for the respondents submitted that, the petitioner's EMD amount will be returned to him within the time



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stipulated by this Court.

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5. In view of the aforesaid submission made by learned Standing Counsel, this Court without expressing any opinion on the merits of the case, directs the respondents to return the EMD amount to the petitioner within a period of four weeks from the date of receipt of a copy of this order. In respect of the GST amount, the petitioner is at liberty to workout the remedy in the manner known to law.

6. With the above observations and directions, this Writ petition stands disposed of. No costs.

06.04.2023

skt

NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

To

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M.DHANDAPANI, J.

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