



W.A.No.768 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.768 of 2023

1.The Executive Director (South),
M/s.Food Corporation of India,
No.8, Mayor Sathyamoorthy Road,
Chetpet, Chennai-600 031.

2.The General Manager (TN),
Food Corporation of India, Regional Office,
No.8, Mayor Sathyamoorthy Road,
Chetpet, Chennai-600 031.

.. Appellants

Vs

G.Jeyasingh,
Proprietor of M/s.Sri Paulthai Lorry,
No.290A/3, Sivanthakulam Road,
Tuticorin-628 003.

.. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 11.1.2023 made in W.P.No.26990 of 2022.



W.A.No.768 of 2023

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For the Appellants : Mr.C.K.Chandrasekkar

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

This writ appeal is directed against the order of the learned Single Judge dated 11.1.2023 made in W.P.No.26990 of 2022.

2. The entire controversy revolves around invitation of tender for awarding a transport contract for two years commencing from November, 2022. As the bid of the writ petitioner/respondent herein was not accepted by the appellants, a writ petition has been filed seeking a direction to the appellants to accept the technical bid of the writ petitioner/respondent herein and to open the financial bid.

3. The learned Single Judge held that the writ petitioner/respondent herein satisfies the conditions of tender and is duly qualified to participate in it and, accordingly, directed the appellants to proceed to open the tender for the financial bid. Challenging the



W.A.No.768 of 2023

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same, the appellants have filed this writ petition.

4. Two grounds have been urged by learned counsel for the appellants. Firstly, it is contended that the value of the contract earlier executed by the writ petitioner/respondent herein in a single financial year is less than Rs.2,28,50,000/-, whereas a tenderer should have undertaken the work to an extent of 25% of the contract amount. Inasmuch as the quantum of work undertaken by the writ petitioner/respondent is less than the required stipulated amount, the writ petitioner/respondent is disqualified. Secondly, it is submitted that the certificate issued by the Warehouse Manager of the FCI (PEG) Godown, Tiruvannamalai, cannot be reckoned as a valid certificate in terms of the tender conditions.

5. The learned Single Judge held that the total amount of contract executed by the writ petitioner/respondent with the FCI (PEG) Godown, Tiruvannamalai from 2.11.2018 to 1.11.2020 was Rs.10,88,61,044/-, 25% value of which is more than the amount of Rs.2,28,50,000/-. Secondly, the learned Single Judge has held that



W.A.No.768 of 2023

the warehouse is operated by a private entity and the certificate issued by the Warehouse Manager can be verified by the FCI authorities and it was further held that the appellants should not stand on technicalities. Assailing the said order, the FCI has filed this appeal.

6. A perusal of the qualification conditions for tender in Clause 3 of the tender conditions shows that experience certificate should be issued by the clients on their letter head. For ready reference, Clause 3(II) is quoted hereunder:

"3. Qualification conditions for Tender:

(I)

(II) Experience details in the Proforma prescribed at Appendix – VI shall be furnished by tenderer. The information furnished in Appendix – VI shall be supported by experience certificate issued by client (s) on their letter head."

7. In the case on hand, the learned Single Judge has given a categorical finding that the warehouse is operated by a private entity and the certificate had been signed by the Warehouse



W.A.No.768 of 2023

operator of the said private entity, namely, PEG, which is explicitly clear from a perusal of the certificate which is found at page 112 of the typed-set of papers. We do not find any necessity to interfere with the said finding arrived at by the learned Single Judge. In any event, the appellants are not precluded from verifying the authenticity of the said certificate and they can verify the details and countersign the particular certificate, rather than sticking on to the technicalities.

8. With regard to the quantum of work executed by the writ petitioner/respondent during the previous years, it is seen that the writ petitioner/respondent executed the work as handling and transport contractor at FCI (PEG), Tiruvannamalai from 2.11.2018 to 1.11.2020 and the total value of the work for the particular period was Rs.10.88 crores, of which 25% is exceeding to Rs.2.28 crore. On this ground also, we do not find any reason to interfere with the direction of the learned Single Judge to open the financial bid of the writ petitioner/respondent.



W.A.No.768 of 2023

9. For the foregoing reasons, the writ appeal fails and the same is dismissed. Consequently, C.M.P.No.7473 of 2023 is closed.

There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
03.04.2023

Index : Yes/No
Neutral Citation : Yes/No
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W.A.No.768 of 2023

T.RAJA, ACJ.
AND
D.BHARATHA CHAKRAVARTHY, J.

bbr

W.A.No.768 of 2023

03.04.2023