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W.P.No.11027 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.11027 of 2023

And

W.M.P.Nos.10912 and 10913 of 2023

NTECL Vallur Anal Min Nilaya
Openthantharargal Nala Sangam/
NTECL Contractors Association
Represented by its Secretary
Mr.Harikrishnan

... Petitioner

Vs.

1.The Chief Executive Officer
NTPC Tamil Nadu Energy Company Ltd.
Vallur Thermal Power Project,
Vellivoyal Chavadi,
Ponneri Taluk,
Chennai Thiruvallur District.
Tamil Nadu – 600 103.

2.The General Manager (C and M)
NTPC Tamil Nadu Energy Company Ltd.
Vallur Thermal Power Project,
Vellivoyal Chavadi,
Ponneri Taluk,
Chennai Thiruvallur District.
Tamil Nadu – 600 103.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus to call for the records on the



W.P.No.11027 of 2023

file of the second respondent's e-Tender in Tender Reference Number CS5331 – Tender ID 2023 – NTECL – 148391 – 1 dated 16.03.2023 02.00 PM and Tender Reference Number CS 5342 – Tender ID 2023 – NTECL – 150437 – 1 dated 28.03.2023 06.00 PM and quash the same as arbitrary and irrational and further direct the second respondent to permit the participation of the member contractors of the Petitioner's Association.

For Petitioner : Mr.T.N.Rajagopalan
for M/s.B.Sivaraman
For Respondents : Mr.M.Vijayan
for M/s.King and Partridge

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records on the file of the second respondent's e-Tender in Tender Reference Number CS5331 – Tender ID 2023 – NTECL – 148391 – 1 dated 16.03.2023 02.00 p.m. and Tender Reference Number CS 5342 – Tender ID 2023 – NTECL – 150437 – 1 dated 28.03.2023 06.00 p.m. and quash the same as arbitrary and irrational and further direct the second respondent to permit the participation of the member contractors of the petitioner's Association.

2.The petitioner Association has filed this writ petition



W.P.No.11027 of 2023

challenging the e-tenders published by the second respondent dated dated 16.03.2023 and 28.03.2023 on the ground that the members of the petitioner Association cannot have effective participation in the tender process in view of the new system introduced by the respondent.

3.The learned counsel appearing for the petitioner submitted that National Thermal Power Corporation [in short 'NTPC'] is a public sector unit and its core business is of setting up power projects and generating electricity and allied activities and Thermal Power Plant was established as Joint Venture with NTPC and TANGEDCO at Vallur – Chennai. Vallur Thermal Power Station is a coal fired power project and for the past several years, the respondents invited tenders for execution of works and they have been duly responded by the members of the petitioner Association. However, recently, the second respondent issued two limited tender notices as per which only the enlisted firms can participate in the tender. Aggrieved by the same, the petitioner has filed this writ petition.

4.The learned counsel appearing for the respondents submitted that considering the urgency of the tenders, the respondents have



W.P.No.11027 of 2023

decided to withdraw the new procedure and to follow the old procedure i.e., two bid system; one is technical bid and another is price bid, in which all the members of the petitioner Association are entitled to participate. However, in future the respondents will go only by the enlisted system and if the members of the petitioner Association want to get themselves entitled to participate in the tender, they have to enlist themselves in the enlisted system. Hence, liberty may be granted to the members of the petitioner Association to enlist themselves in the enlisted system in NTECL.

5.In view of the fair submission made by the learned counsel appearing for the respondents, liberty is given to the members of the petitioner Association to participate in the tender process.

6.Since the members of the petitioner Association are entitled to participate in the tender process, the writ petition become infructuous and the same is dismissed as infructuous. Further liberty granted to the members of the Association to enlist themselves in the NTECL. No costs. Consequently, the connected miscellaneous petitions are closed.



W.P.No.11027 of 2023

20.06.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

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W.P.No.11027 of 2023

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