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W.P.Nos.14162 of 2021 etc

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.14162, 7907,13942 & 14026 of 2021 and 2095 of 2022
and

W.M.P.Nos. 15041, 8450, 14813, 14814, 14902 of 2021, 2250 &
2251 of 2022

M/s. Navitel Corporation Private Limited,
Rep. by its Director,
No.1A,2A, Gangai Street, South Ram Nagar,
Madipakkam, Chennai – 91.

.. Petitioner
in all writ petitions

VS

1.The Deputy General Manager (Planning and Admission),
Bharat Sanchar Nigam Limited (BSNL),
Coimbatore – 641 043.

2.The Assistant General Manager (NWP),
Office of the Principal General Manager,
Bharat Sanchar Nigam Limited,
Coimbatore – 641 043.

3.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Telecom Circle,
Chennai – 06.

.. Respondents
in W.P.No.14162/21

1.The General Manager,
Bharat Sanchar Nigam Limited (BSNL),
Salem Business Area, Salem – 7.

2.The Principal General Manager
Bharat Sanchar Nigam Limited,
Dharmapuri.



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3.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Telecom Circle,
Chennai – 600 006.

.. Respondents
in WP 7907/21

1.The Principal General Manager,
Bharat Sanchar Nigam Limited,
Erode – 638 001.

2.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Telecom Circle,
Chennai – 600 006.

.. Respondents
in WP 13942/21

1.The General Manager
Bharat Sanchar Nigam Limited,
Salem – 636 007.

2.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Telecom Circle,
Chennai – 06.

.. Respondents
in WP 14026/21

1.The Principal General Manager,
Bharat Sanchar Nigam Limited,
Coimbatore – 641 043.

2.The Asst.General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Telecom Circle,
No.2, Bharathi Park Road,
Coimbatore – 641 043.

3.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Telecom Circle,
Chennai – 600 006.

.. Respondents
in WP 2095/22



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Prayer in W.P.No.14162 of 2021: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the impugned order of the first respondent in CBT BA/PLG/E-Tender Corres/Semi Urban Clusters/2019-20/64 dated 01.10.2020 and the impugned order of the second respondent in CBT BA/PLG/E-Tender Corres/Semi Urban Clusters/2019-20/67 dated 24.10.2020 and quash the same and direct the first respondent to permit the petitioner company to continue as a Maintenance Partner as per the terms of the Tender awarded in their favour in Cluster ID Nos. TNCBT016 (Udumalpet), TNCBT020 (Saravanamaptti) and TCBT002 (Pollachi Rural) and further direct the respondents to release all the funds due to be paid to petitioner company within a time limit to be fixed by this Court.

Prayer in W.P.No.7907 of 2021: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the impugned order of the first respondent in No.DPI/Cluster/performance/2020-21/19 and No.DPI/Cluster/performance/2020-21/20 both dated 09.12.2020 and quash the same and direct the first respondent to permit the petitioner company to continue as a Maintenance Partner as per the terms of Tender awarded in their favour in Cluster ID Nos. TNDIP1001 (Dharmapuri Urban) and TNDIP1003 (Hosur Urban) in and by the proceedings of the second respondent in N11-E-Tender/Policy Outsourcing EXTL PLANT-TENDER CORRES URBAN AREA/2020-22/31 dated 22.05.2020 and N11-E-TENDER/POLICY OUTSOURCING EXTL PLANT-TENDER CORRES URBAN AREA/2020-22/32 dated 22.05.2020 and further direct the respondents to release all the funds due to be paid to the petitioner company within a time limit fixed by this Court.

Prayer in W.P.No.13942 of 2021: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the impugned order of the first respondent in (1) No.E-TENDER/EXT PLANT MTCE (SEMI-URBAN) ERD SSA/2019-21/43 dated Erd the 17-11-2020 (2) No.E-TENDER/EXT PLANT MTCE (SEMI-URBAN) ERD SSA/2019-21/44 dated Erd the 17.11.2020 (3) No.E-TENDER/EXT PLANT MTCE (SEMI-URBAN) ERD SSA/2019-21/45 dated Erd the 17.11.2020 and (4) No.E-TENDER/EXT PLANT MTCE (SEMI-URBAN) ERD SSA/2019-21/46 dated Erd the 17.11.220 and quash the same and direct the first respondent to permit the petitioner Company to continue as a Maintenance partner as per the terms of Tender awarded in their



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favour in respect of the four clusters in Erode Business Area of BSNL and further direct the respondents to release all the funds due to be paid to the petitioner company within a time limit fixed by this Court.

Prayer in W.P.No.14026 of 2021: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the impugned order of the first respondent in No.N11/ENP/CFA/OUTSOURCING/2020-21/41 dated @ Salem-7 the 28.11.2020 and No.N11/ENP/CFA/OUTSOURCING/2020-21/42 dated @ Salem-7 the 28.11.2020 and quash the same and direct the first respondent to permit the petitioner Company to continue as a Maintenance partner as per the terms of Tender awarded in their favour in respect of the four clusters in Salem Business Area of BSNL and further direct the respondents to release all the funds due to be paid to the petitioner company within a time limit fixed by this Court.

Prayer in W.P.No.2095 of 2022: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the impugned order of the first respondent in E-Tender No.CBT BA/Mtce & Prov of LL & BB in Nilgiris SSA/Urban Clusters/2019-20/23 dated at CBT-43 the 15.11.2021 and CBT BA/Mcte & Prov of LL & BB in Nilgiris SSA/Urban Clusters/2019-20/27 dated at CBT -43 the 01.12.2021 and the impugned order of the second respondent and quash the same and direct the first respondent to permit the petitioner Company to continue as a Maintenance partner as per the term so the Tender awarded in their favour Cluster ID Nos.OotyTNOOTY001, Coonoor TNOOTY002, Nilgiris Semi Urban I TNOOTY003, Nilgiris Semi Urban II TNOOTY004 and further direct the respondents to release all the funds due to be paid to the petitioner company within a time limit fixed by this Court.

For Petitioner : Mr.R.Vijaya Khumar
(in all writ petition)

For Respondents : Mr.S.Udayakumar
(in all writ petitions)



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COMMON ORDER

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Both Mr.R.Vijaya Khumar, learned counsel for the petitioner and Mr.S.Udayakumar, learned counsel for the respondents convey the instructions of their respective clients that the *lis* between the parties may be settled by arbitration.

2. Agreement dated 10.02.2020 inter se the parties contains a clause for arbitration clause (9), in Section V of part A of the General (Commercial) Conditions of Contract. Since the quantification of the claim in the present case is less than Rs.5 crores, a sole arbitrator is to be appointed.

3. Both learned counsel have filed a joint memo dated 18.10.2023 seeking the appointment of Hon'ble Mr.Justice D.Murugesan (Retd) as sole Arbitrator. This Court has also ascertained the availability and concurrence of the Hon'ble Judge to take this assignment up.

4. Hence, Hon'ble Mr.Justice D.Murugesan (Retd), is appointed as sole arbitrator by consent of the parties and a copy of this order will be forwarded to him at No.11-A, M.D.Sitaraman Avenue, 7th Street, VGP Layout, Injambakkam, Chennai – 600 115, (Mobile No. 8826253366, Land Line : 044 – 24492268), to enable further progress in the matter.



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5. Incidentally, it is recorded that the parties are willing to abide by the Fast Track Procedure in Clause 9.8 of agreement dated 10.02.2020, if adopted by the learned Arbitrator.

6. Writ petitions stand closed in light of this order. No costs. Connected miscellaneous petitions are also closed.

18.10.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To

- 1.The Deputy General Manager (Planning and Admission),
Bharat Sanchar Nigam Limited (BSNL),
Coimbatore – 641 043.
- 2.The Assistant General Manager (NWP),
Office of the Principal General Manager,
Bharat Sanchar Nigam Limited,
Coimbatore – 641 043.
- 3.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Telecom Circle,
Chennai – 06.
- 4.The General Manager,
Bharat Sanchar Nigam Limited (BSNL),
Salem Business Area, Salem – 7.
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Dharmapuri.
- 6.The Principal General Manager,
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7.The General Manager
Bharat Sanchar Nigam Limited,
Salem – 636 007.

8.The Principal General Manager,
Bharat Sanchar Nigam Limited,
Coimbatore – 641 043.

9.The Asst.General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Telecom Circle,
No.2, Bharathi Park Road,
Coimbatore – 641 043.



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DR. ANITA SUMANTH,J.

ssm

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