



WA No.626 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

WA No.626 of 2016

Turbo Engineers (CBE),
Through its D.G.M., (Tech & Marketing)
Mr.D.Arunkumar.

...

Appellant

versus

1.Mettur Thermal Power Station-Stage II
Owned by TANGEDCO Ltd.,
Represented through the Chief Engineer,
Mettur Dam-636 406.

2.M/s.Rali Engineering Works,
No.3/73, Madurai BYe-Pass Road,
Near BPCL LPG Filling Plant,
Tuticorin -628 101.

3.BMW Steels Ltd.,
Represented by its Director,
Navipur Road,
Hathras 204101 U.P.

4.Financial Controller (Tender),
TANGEDCO, 10th Floor, NPKRR Maaligai,
Chennai-600 002.

...

Respondents



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PRAYER: Writ Appeal filed against the order of the learned Single Judge dated 28.04.2016 in W.P.No.6617 of 2016.

For the Appellant : Mr.K.Ravi Ananthapadmanabhan
Senior Counsel
for Mr.N.Santhosh Kumar

For the Respondents: Mr.K.Arun Prasad
Standing Counsel (TNEB)
for respondent Nos.1 and 4
Mr.G.Krishnakumar
for second respondent
R3-Company Closed.

JUDGMENT

(Judgment of the Court was made by *D.KRISHNAKUMAR, J.*)

The writ appeal is filed challenging the order dated 28.04.2016 passed by the Writ Court in W.P.No.6617 of 2016.

2. The appellant/petitioner has preferred W.P.No.6617 of 2016 challenging the tender specification No.CE/MTPs-II (600 MW)MM/AEE-2/O.T.1078/2015-16, dated 16.11.2015 issued by the first respondent, and to quash the pre-qualification document dated 21.06.2014 (vide Letter No.CE/SE/P&A/TTPS/P.O. 8273M/EE/MH/AEE-5 Secr.1959M/D, 3149/114, dated 21.06.2014 of the second respondent. The writ court has considered the issue elaborately and dismissed the writ



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petition by order dated 28.04.2016. Challenging the aforesaid order of the Learned Single Judge, the appellant has filed the intra court appeal before this Court.

3. Learned counsel for the appellant has stated that as the authorized person of the third-respondent, the second respondent ought to have purchased materials only from third respondent and ought to have obtained the manufacture's certificate only from the third respondent and therefore the qualification document filed by second respondent which is a purchase order given to it on an earlier occasion, should have been rejected. Learned counsel for the appellant/petitioner further submits that the second respondent is only a dealer and not a manufacture and the test certificate produced by the second respondent is a certificate issued by a third party and not a manufacturer's test certificate and therefore it does not satisfy the bid qualification requirement.

4. Learned counsel for the first respondent would submit that the first-respondent floated a tender notification dated 16.11.2015 inviting tenders to supply fly ash/bottom ash conveying line cast lined pipe



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with flange on both sides during the period 2015-2016. Pursuant to the said tender notification the second respondent had participated and he was declared as successful bidder. Accordingly, the said tender was finalized and purchase order was issued by the first respondent in favour of the second respondent and the materials have already been supplied and therefore at this distance of time, nothing warrants to interfere in the order of the writ court, impugned in the present appeal.

5. Learned counsel for the appellant/petitioner has made an objection to the above stand of the first respondent. The appellant/petitioner has relied upon the complaint dated 27.10.2015 preferred by the third respondent as against the second respondent by stating that the second respondent on an earlier occasion has supplied fake products claiming it as third respondent's supply and submitted forged test certificate too. The said document was placed before the learned Single Judge, however on perusal of all documents, ultimately the writ petition came to be dismissed by the learned Single Judge.



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6. Considering the fact that the aforesaid period of supply, namely 2015-2016 has already been completed and the supply of materials, subject matter of the notification in question, were also supplied and therefore, at this stage, we do not wish to go into the merits of the case, as no adjudication is required in the present writ appeal, as no useful purpose would be served. In view of the same, the writ appeal is liable to be dismissed as having become infructuous. However, if subsequently, it is brought to the notice of the appellant that the second respondent has submitted any forged or fake documents and the same have been relied upon by the respondents, it is open to the appellant/petitioner to work out his remedy before the appropriate authority concerned.

7. With the above liberty, the writ appeal stands dismissed as infructuous. There will be no order as to costs.

[D.K.K., J.] [P.B.B., J.]
12.09.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn



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To

1. The Chief Engineer,
Mettur Thermal Power Station-Stage II
Owned by TANGEDCO Ltd.,
Mettur Dam-636 406.

2. Financial Controller (Tender),
TANGEDCO, 10th Floor, NPKRR Maaligai,
Chennai-600 002.



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