



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.26990 of 2022
and
W.M.P.No.26206 of 2022

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

.. Petitioner

Vs.

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),
M/s.Food Corporation of India,
No.8, Mayor Sathyamoorthy Road,
Chetpet, Chennai – 600 031.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to accept the technical bid of the petitioner and to open their financial bid in pursuance of the initial tender enquiry dated 03.08.2022 in S&C13(6)/31/2022/PEG-TVM/CONT.



For Petitioner .. Mr.R.Swarnavel

For Respondents .. Mr.M.Imthias.

ORDER

This Writ Petition has been filed in the nature of Mandamus seeking a direction to the respondents to accept the technical bid of the petitioner and thereafter to open the financial bid given by the petitioner consequent to the tender enquiry dated 03.08.2022 in S&C13(6)/31/2022/PEG-TVM/CONT.

2.The petitioner is the proprietor of Sri Paulthai Lorry, having office at Tuticorin. They had participated in a tender enquiry dated 03.08.2022 in S&C13(6)/31/2022/PEG-TVM/CONT. The petitioner claims that they also have experience as being the successful bidder on two previous occasions for the Thiruvannamalai area. They are also the successful contractor of the Thiruvannamalai area for the current period. The contract for the Thiruvannamalai depot expired in the month of November 2022. An online tender had been issued by the respondents for the purpose of appointing a fresh transport contractors for Thiruvannamalai for the next two years



commencing from November 2022 onwards vide e-tender notice in S&C13(6)/31/2022/PEG-TVM/CONT on 03.08.2022.

3.The tender process was in two stages. The 1st stage was for the participants to provide their documents, which is called technical evaluation. If the participants cross that particular stage, then the financial bid will be opened.

4.In the present case, the petitioner have been shut out in the first stage. It had been held that the documents did not pass the scrutiny of the officials. In effect the bid had been rejected in the technical stage. Reason for such rejection was that the petitioner was under an obligation to provide two separate certificates. The tender contract incidentally for a total sum of Rs.9,14,00,000/-. The petitioner should provide certificates that he had done work to an extent of 25% of that amount, which roughly comes to Rs.2,28,50,000/-. In this connection, the petitioner had given a certificate from the Tuticorin depot. That document had been enclosed in the typed set.



5.The learned counsel for the respondents, however, stated that they could not proceed further with that particular certificate since for three financial years the total amount of contract awarded was Rs.3,00,06,717/- and it was therefore contended that the value was less than Rs.2,28,50,000/- which is the requirement for one financial year.

6.The petitioner had also submitted yet another certificate. It is also enclosed along with the typed set of papers. That certificate is dated 22.08.2022 in the letter head of Food Corporation of India, Pudumannai Village, Tiruvannamalai Taluk and District. It is stated in the said certificate that the petitioner herein had worked as handling and transport contractor at FCI PEG, Thiruvannamalai from 02.11.2018 to 01.11.2020. The total value in that particular period was Rs.10,88,61,044/-. Obviously this amount much more than the expected value required namely, Rs.2,28,50,000/-.

7.The only grievance of the respondents is that this particular certificate has been signed by the warehouse Manager of FCI (PEG) Godown, Thiruvannamalai. It was stated that the warehouse is operated by a private entity and had signed by the warehouse operator of the said private entity namely, PEG.



8. But however, the fact cannot be disputed that Food Corporation of India has used the said godown and transported goods to and from the godown. The petitioner vehicles had been used for that purpose. This as a fact, cannot be either disputed or denied. The signatory appears to be the warehouse Manager and not an official of the Food Corporation of India. Any official of the Food Corporation of India could very well have verified the details given in the certificate and could have countersigned that particular certificate. I hold they should not stand on technicality to such a strict extent.

9. I would therefore, overrule the objections raised by the respondents and direct the respondents to accept this particular certificate dated 22.08.2022. If on other terms the petitioner stands qualified in the technical bid, the respondents must proceed further to open the tender for the financial bid.

10. With the above observations, this Writ Petition stands allowed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

11.01.2023

Index: Yes/No
Internet: Yes/No
smv



To

WEB COPY

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WEB COPY



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C.V.KARTHIKEYAN,J.

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