



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2023

CORAM

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

W.P.No.33051 of 2022
and
W.M.P.No.32460 of 2022

M/s.Sri Vetri Constructions
Rep.by its Managing Partner
S.R.Vetrivel,
No.33, SR Complex,
Siddha Veeerappa Street,
Dharmapuri District.

.. Petitioner

Vs.

1.The Chief Engineer,
PWD,
Technical Education Circle,
Chennai – 600 025.

2.The Executive Engineer,
Technical Education Division,
Vellore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent order dated 21.10.2022 vide letter in Lr.No.DO.2/DB/TEC/2022 with regard to Tenter Notice No:34



CE/DO.1/TEC/2022-23 dated 12.07.2022, Serial No.2 (Construction of Indoor stadium in Government Engineering College at Chettikarai in Dharmapuri District) received by the petitioner on 25.11.2022 and quash the same and consequently direct the 1st respondent to issue fresh notification calling for tender application.

For Petitioner .. Mr.V.Sakkarapani

For Respondents .. Mr.U.Bharanidharan,

Additional Government Pleader

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus to interfere with an order dated 21.10.2022 communicated by Lr.No.DO.2/DB/TEC/2022 relating to Tender Notice No:34 CE/DO.1/TEC/2022-23 dated 12.07.2022 with respect to construction of Indoor stadium in Government Engineering College at Chettikarai in Dharmapuri District. The petitioner had received the said order only on 25.11.2022.

2.In the affidavit filed in support of the writ petition, the petitioner, Managing Partner of Sri Vetri Constructions at Dharmapuri District had



stated that they had participated in a tender for the construction of Indoor Stadium in Government Engineering College, Dharmapuri District. This was one among the various other works for which the tender was issued by the 1st respondent on 12.07.2022. This was in SL.No.2 of the notification. The tender application was kept open from 14.07.2022 to 23.08.2022. The tender was to be opened on 23.08.2022 at 3.30 p.m. According to him, the Chief Engineer was not available and the date was therefore postponed to the future date.

3.The petitioner claimed that he received a call from the office of the 1st respondent that the tenders were scheduled to be opened on 05.09.2022. The petitioner claimed that he went over to the office of the 1st respondent on 05.09.2022 and but again it was informed that the tenders will not be opened, since again the Chief Engineer was not available and that a future date would be informed him. The petitioner did not receive any further intimation.

4.The petitioner thereafter sent a communication on 21.09.2022 through Registered Post with acknowledgement due. The petitioner again



waited for more than a month and raised a query under the Right to Information Act, seeking details about the tender application. This was on 05.11.2022. The petitioner received a reply from the 1st respondent on 07.11.2022. The 1st respondent stated that the petitioner bid was not approved by the Tender Award Committee in the meeting held on 21.10.2022. The letter according to the petitioner was served on 25.11.2022. Alleging that there has been no transparency in the manner in which the bids were called and finalized, the writ petition has been filed in the nature of Certiorarified Mandamus.

5. In view of the fact that the petitioner had raised issues on fact particularly that, (i) the tender was not opened on 23.08.2022, (ii) that the petitioner was not communicated about the rejection of his tender within a reasonable period of time and was actually communicated only by a letter which was despatched on 21.11.2022, this Court had directed the records to be produced. Additionally, counter affidavit was also filed by the 1st respondent and consequent to production of records, an additional counter affidavit has also been filed. The records had been perused by this Court.



6.The learned counsel for the petitioner had the benefit of perusing the records produced by the respondents. The learned counsel also examined the fact that a regular appeal can be filed under Section 11 of the Tamil Nadu Tender Transparency Act, 1998. After taking necessary instructions, the learned counsel stated that he may be permitted to file necessary appeal. The said provision has an inbuilt limitation period.

7.It is seen from the records that the writ petition was filed on 06.12.2022 and it has been pending before this Court till 24.02.2023. This period, naturally, since the petitioner was agitating the issues before a wrong forum, can be adjusted with the period of limitation. The communication according to the petitioner was received on 25.11.2022 and it was despatched on 21.11.2022 which is also evident from the records.

8.Let me therefore not enter into any further discussion relating to the records produced ,since now the entire issue will have to be examined by the Appellate Authority. But I would place a caveat that the petitioner should file necessary appeal on or before 10.03.2023 and if it is so filed, the delay, which would be around a week's time, may be condoned and should not be put against the petitioner herein.



9.The petitioner is also permitted to raise all the issues before the Appellate Authority though they have been raised in the present writ petition and I am consciously not answering any of them, only for these reasons stated. Though the records had been produced and perused by me, I have not stated any opinion relating to the records and I would leave that privilege to the Appellate Authority to examine and render a finding.

10.With the above observation, this Writ Petition stands disposed of.
No costs. Consequently, connected Writ Miscellaneous Petition is closed.

24.02.2023

Index:Yes/No
Internet:Yes/No
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To

WEB COPY

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Technical Education Circle,
Chennai – 600 025.
2. The Executive Engineer,
Technical Education Division,
Vellore District.



WEB COPY



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C.V.KARTHIKEYAN,J.

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