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W.P.No.32639 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.32639 of 2023

and

W.M.P.Nos. 32238 & 32239 of 2023

Elumalai.V

.. Petitioner

VS

1.Tamil Nadu Cements Corporation Limited
(An undertaking of government of Tamil Nadu)
Rep. by its Managing Director,
No.3A Aavin Illam, 5th Floor,
Pasupon Muthuramalinga Salai,
Nandanam, Chennai - 600 035.

2.The General Manager (Marketing)
Tamil Nadu Cements Corporation Limited,
No.3A, Aavin Illam, 5th Floor,
Pasupon Muthuramalinga Salai,
Nandanam, Chennai - 600 035.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the respondents culminating in the impugned TENDER reference No.64/O&M-E&1/1MTPA/ACW/2023-24 issued pursuant to the Notice inviting for E-Tender dated 10.11.2023, quash the same in so far as it relates to selection of contractors relating to the job of operations and maintenance of electrical and instrumentation systems in 1MPTA Cement Plant at Ariyalur Cement works and consequently direct the respondents for a fresh tender in consonance with Rule 20 of Tamil Nadu Transparency in Tender Rules, 2000.



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For Petitioner : Mr.S.Sivaraman

For Respondents : Mr.A.Sivaji

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ORDER

The petitioner has challenged tender Notification bearing No.64/O&M-E&1/1MTPA/ACW/2023-24 issued pursuant to a notice inviting bids for e-tender dated 10.11.2023.

2. The primary issue on the basis of which the challenge is laid is that the authority has not followed the time frame stipulated in terms of Rule 20 of the Tamil Nadu Tender Transparency Rules, 2000 (in short,'Rules'). The aforesaid Rule, reads thus:-

20. Minimum time for submission of tenders.-

(1) The Tender Inviting Authority shall ensure that adequate time is provided for the submission of tenders and a minimum time is allowed between date of publication of the Notice Inviting Tenders in the relevant Tender Bulletin or in the newspapers whichever is later and the last date for submission of tenders. This minimum period shall be as follows.-

(a) for tenders upto rupees two crores in value, fifteen days; and

(b) for tenders in excess of rupees two crores in value, thirty days.

(2) Any reduction in the time stipulated as per sub-rule (1) has to be specifically authorized by an authority superior to the Tender Inviting Authority for reasons to be recorded in writing."

3. In the present case, the tender value is Rs.2 crores and hence 30 days has to be provided as a minimum period.



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4. Since the minimum period has not been adhered to as per Rules, records were directed to be produced on 16.11.2023 and the matter was listed on 17.11.2023.

5. On 17.11.2023, learned counsel for the respondents produced a corrigendum stating that submission of bids has been extended till 23.11.2023. This too, is not in line with the prescription under Rule 20.

6. The matter was adjourned to 27.11.2023, but on account of repeated mentions being made by the respondents, the hearing has been advanced to today.

7. Respondents have produced records today to show that R1, being the superior authority, has endorsed that the tender process may be completed within seven days (short notice) since the expiry of the current work order is by 30.11.2023.

8. In such circumstances, it is a mystery as to why the respondents have tarried till the last minute to float the present tender. To be noted that, the purpose of Rule 20 is to aid in unavoidable circumstances such that the flotation of a tender may be immediate. The object of Rule 20 is not to come to the aid of an authority who has not exercised due diligence and has delayed matters till the eleventh hour.

9. The present flotation of tender has been taken up only



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on 09.11.2023, despite the respondents being fully aware of the fact that the work order of the present contractor expires on 30.11.2023.

10. Thus, while the respondents are permitted to proceed with the present tender as the present work order expires on 30.11.2023.

11. The respondents are put to terms and will remit a sum of Rs.10,000/- to the Cancer Institute, Adayar, Chennai within a period of one week from today. W.P. closed as are the connected miscellaneous petitions.

24.11.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To

1.The Managing Director,
Tamil Nadu Cements Corporation Limited
(An undertaking of government of Tamil Nadu)
No.3A Aavin Illam, 5th Floor,
Pasupon Muthuramalinga Salai,
Nandanam, Chennai - 600 035.

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DR. ANITA SUMANTH,J.

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