



W.A(MD) No.46 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A.(MD) No.46 of 2023
and C.M.P.(MD)No.479 of 2023**

Sunshine International Agritech,
Represented by its Managing Director,
Arun Kumar

... Appellant

-VS-

1.The Finance Secretary,
Finance Department Secretariat,
Fort St. George,
Chennai – 600 009.

2.The Secretary,
School Education Department,
Rina Road, Fort St. George,
Chennai – 600 009.

3.The Managing Director,
Tender Inviting Authority,
Tamil Nadu, Text Book and
Educational Service Corporation,
Chennai – 600 006.

... Respondents

PRAYER: Writ Appeal filed under Section 15 of Letters Patent against
the order dated 11.11.2022 made in W.P.(MD)No.24570 of 2022.



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For Appellant : Mr.B.Sargunam

For Respondents : Mr.S.Saji Bino,
Special Government Pleader.

JUDGMENT

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

Challenging the order dated 11.11.2022 made in W.P.(MD)No. 24570 of 2022, the appellant has come forward with this writ appeal.

2. It is the case of the appellant that the third respondent circulated a Tender Notification in Ref.RC.No.9350/PUR-II/2022, for the supply and delivery of school bags to the school children in Tamil Nadu for the year 2023 – 2024. As per the said tender notification, the appellant sent a representation along with costs and processing fees to the respondents to participate in the tender. The third respondent, by a reply dated 25.10.2022, rejected the said application on the ground that the appellant is the importer of goods from the foreign company in China. Hence, the appellant has filed a writ petition before this Court in W.P.(MD)No. 24570 of 2022, seeking a direction to the respondents to permit him to participate in the Tender dated 27.10.2022 for the supply and delivery of



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school bags to the school children in Tamil Nadu for the year 2023 – 2024. After hearing the parties, this Court by order dated 11.11.2022, dismissed the said writ petition. As against the same, the appellant has filed this Writ Appeal.

3. The learned counsel appearing for the appellant submitted that the appellant is having a manufacturing unit within the Country and therefore, the reason stated by the writ Court that the appellant company is an importer company is not correct. Hence, the order of the learned Single Judge warrants interference.

4. The learned Special Government Pleader appearing for the respondents submitted that as per the eligibility criteria, which has been prescribed in the tender notification, the appellant is not eligible to participate in the tender, as the appellant's company is an importer company, who has got the materials from a foreign company and therefore, the respondents have rightly rejected the appellant's application. Considering the said fact, the learned Single Judge has rightly dismissed the writ petition and therefore, this Writ Appeal is liable to be dismissed.



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5. We have heard the learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

6. On a perusal of the records, it is seen that pursuant to the tender notification issued by the authority, the appellant made an application to the respondents to participate in the said tender process. The respondent has rejected the said application stating that he is not eligible for the said tender process, on the ground that he is an importer company. That being so, the appellant has to challenge either the rejection order passed by the respondents or the eligibility criteria, which has been prescribed in the tender notification. Without doing so, the appellant has filed the writ petition seeking permission to participate in the tender for the supply and delivery of school bags to the school children in Tamil Nadu for the year 2023 – 2024. Therefore, the learned single Judge has rightly dismissed the said writ petition. Hence, there is no merit in this writ appeal and the same is liable to be dismissed.

7. Accordingly, this Writ Appeal is dismissed. We make it clear that, if the appellant being aggrieved any of the eligibility criteria, which



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has been prescribed in the tender notification, it is open to him to challenge the same. This order will not stand on the way of the appellant to participate in the future tender if otherwise eligible. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

19.01.2023

NCC : Yes / No

Index : Yes / No

vsm

To

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