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W.P.No.1925 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.1925 of 2024 and
W.M.P.No.2033 of 2024

T.Selvam

... Petitioner

Vs.

1.The Director,
Rural Development and Panchayat Raj,
Panagal Palace, Chennai 600 009.

2.The Additional Collector (Dev)/Project Director,
District Rural Development Agency,
Sathuvachari, Vellore.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to cancel the tender notification published on 09.01.2024 which is scheduled to be conducted on 24.01.2024 calling for applicants to participate in the said tender for multiple projects for the improvements of roads and streets & lanes in Peri-urban Village Panchayats works package wise under Two Cover System in Vellore District for a value of Rs.9,26,81,000/- (Nine Crore Twenty Six Lakhs Eighty One Thousand Only) for 57 works clubbed under Package Tender System in Vellore Block under the CMDA, LPA and I & A(2023-24) in 17 Districts.



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For Petitioner : Ms.A.Pavithra Priyadharshini

For Respondents : Mr.S.Nanmaran, SGP

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus, to direct the first respondent to cancel the tender notification published on 09.01.2024 which is scheduled to be conducted on 24.01.2024 calling for applicants to participate in the said tender for multiple projects for the improvements of roads and streets & lanes in Peri-urban Village Panchayats works package wise under Two Cover System in Vellore District for a value of Rs.9,26,81,000/- (Nine Crore Twenty Six Lakhs Eighty One Thousand Only) for 57 works clubbed under Package Tender System in Vellore Block under the CMDA, LPA and I & A(2023-24) in 17 Districts.

2. Heard Ms.A.Pavithra Priyadharshini, learned counsel for the petitioner and Mr.S.Nanmaran, learned Special Government Pleader for the respondents.

3. This Writ Petition has been filed by alleging that the first



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respondent has given a tender notification by combining too many projects in violation of G.O.Ms.No.139, Public Works Department dated 27.09.2021 and invited tender under the Package Tender System.

4. It is submitted by the learned counsel for the petitioner that the petitioner is a Class-I contractor and his maximum eligibility is One Crore contracts; it is further submitted that had the projects not combined, the petitioner would have got an opportunity to participate in the tender; as the tender notification has been given under Package Tender System, the petitioner is not able to participate in the tender.

5. The learned Special Government Pleader for the respondents submitted that the petitioner who is not eligible to participate in the tender has filed this Writ Petition and the very Petition itself is not maintainable because of the lack of *locus standi* on the part of the petitioner.

6. No doubt under G.O.Ms.No.139, Public Works Department



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dated 27.09.2021, it has been stated that the Package Tender System cannot be invoked and the said system has been cancelled. The reason for cancelling the Package Tender System has also been stated as under:

"(i) The Package Tender System ordered in the Government Order first read above introduced monopoly in the construction works carried out by the Contractors, in various departments of the State of Tamil Nadu.

(ii) By enhancing the eligibility criteria, only a very few contractors in the entire State will be benefited and thousands of contractors will be affected within in turn will affect the large number of labourers depending upon them.

(iii) Financially sound contractors and capable of executing works simultaneously with their available man power, machinery and the centring material required for completing the works in time is the basis of passing the Government Order and it is against the Directive Principles of State Policy which prevents the concentration of wealth among the few and there is no data to show that the contractors executing works simultaneously for completing the works in time.

(iv) Based on the orders issued in the



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Government Order first read above only a few contractors in the State of Tamil Nadu will be eligible to participate in the tenders, since they alone would have the financial wherewithal to participate in such huge tenders. As a result, most number of small and middle scale contractors and their workers will suffer due to the present Package Tender System."

7. But the said conditions above stated are in respect of construction works being taken by the contractors in various districts of Tamil Nadu. But the impugned tender notification is concerned, it is in respect of maintenance of streets in the various parts of Vellore District. Had the notification issued was for inviting tenders for constructing any building projects, it is correct for the petitioner to state that the notification has been given in violation of G.O.Ms.No.139 dated 27.09.2021. It appears from the notification that the provisions for payment in various streets have been notified. As the petitioner's eligibility fall below the project value of Rs.9,26,81,000/-, he could not participate in the tender and that G.O.Ms.No.139, dated 27.09.2021 has been isolated.



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8. In view of the above stated reasons, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

31.01.2024

Index : Yes /No
Internet : Yes/No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk



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To

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R.N.MANJULA, J.

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