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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.01.2024

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.2134 of 2024
and W.M.P.Nos.2283 & 2286 of 2024

M/s. TKP Infra Engineering,
Rep. by its Managing Partner,
T.K.Paghalavan,
No.1-1/2, South Street,
Orathur, Nagapattinam – 611 108.

... Petitioner

VS

1. Office of the Superintending Engineer (Highways)
Nabard & Rural Roads,
Tiruchirapalli Circle,
Tiruchirapalli.

2. The Divisional Engineer,
Quality Control-Highways Department,
Office of the Divisional Engineer,
TVS Toll Gate, Kallukuzhi,
Trichy-620 002.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the impugned proceedings dated 24.01.2024 issued by the first respondent rejecting the petitioner's application and quash the same.



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For Petitioner : Mr.T.Ananthasekar

For Respondents : Mrs.Geetha Thamaraiselvan
Special Government Pleader

ORDER

Mrs.Geetha Thamaraiselvan, learned Special Government Pleader accepts notice for the respondents and is armed with instructions to enable final disposal of this Writ Petition, even at the stage of admission. Hence, by consent, the following order is passed.

2. The petitioner has challenged the rejection of his technical bid in response to tender notice dated 03.01.2024 for the work of upgradation of Vettaikaraniruppu – Bangala Road to VV Road K.M 0/0-1/800 under Nagapattinam (H) Nabard and rural Roads Division up gradation of Panchayath Union roads/Nabard – XXIX/2023-24 with the estimated cost of Rs.120.90 Lakhs and upgradation of Vettaikaraniruppu – New Kadarkarai Sali km 0/0-1/120 with estimated cost of Rs.120.90 Lakhs.

3. The sum and substance of the Writ Petition is the challenge to proceedings dated 24.01.2024 rejecting the technical bid of the petitioner on the ground that the bidder has not met the eligibility criteria prescribed.

4. On instructions, Mrs. Geetha would submit that the petitioner did not satisfy the special conditions for plant and machinery, which requires the



tenderer to upload the documents to evidence possession of their own own CMP, Paver finishers, Vibratory Roller and Static roller as per MORT&H Specification for the Road works and Concrete Mixer Machine and Needle/Pin Vibrator for the Structure works.

5. A specific question was posed to learned Special Government Pleader as to whether the special conditions were part of the bid document and in response, a copy of the online bid document has been placed before the Court. The special conditions for plant and machinery are at page 71 of that document and the stipulation is specific to the effect that tenders received without proof for possession of their own machinery in good working condition would be rejected.

6. In response, learned counsel for the petitioner would submit that the required documents have been produced in response to an earlier Tender Notification issued made by the same authority and that the authority was thus well aware that such machineries were available with the petitioner and that they were in good working condition.

7. The non-furnishing of the documents is a clear and apparent violation of the Tender Notification. In such circumstances, this Court does not find any merit, prima facie, in the challenge made now. The petitioner believes that it could persuade the authorities to take a different view on the basis of the



documents filed earlier and learned counsel for the petitioner states that the petitioner will file an appeal under Section 11 of the Tamil Nadu Transparency in Tenders Act, 1998 (in short 'Act'). The petitioner is entitled to do so and no liberty is specifically required, as Section 11 grants 10 days from date of receipt of order, to an aggrieved tenderer to file an appeal to the Government.

8. Appeal, if any, filed by petitioner will be disposed by the competent authority within a period of two days from date of receipt of such appeal, after hearing the petitioner, in accordance with law.

9. This Writ Petition and the connected Miscellaneous Petitions are closed in terms of this order. No costs.

31.01.2024

Index : Yes/No

Speaking Order:Yes

Neutral Citation:Yes

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Note: Registry is directed to issue a copy of this order on or before 01.02.2024

To

1.Office of the Superintending Engineer (Highways)
Nabard & Rural Roads,
Tiruchirapalli Circle,
Tiruchirapalli.

2.The Divisional Engineer,



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Quality Control-Highways Department,
Office of the Divisional Engineer,
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DR.ANITA SUMANTH, J.

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