



WEB COPY



W.P.No.5469 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.5469 of 2024

and

W.M.P.Nos.6125 & 6126 of 2024

Draeger India Private Ltd,
Rep. By Its Regional Sales And Marketing Manager,
Having their Registered Office At 10th Floor,
Commerz 2, International Business Park,
Oberori Garden City, Off Western Express Highway,
Goregaon(East),
Mumbai -400 063,
Having Regional Office At KRM Plaza,
No. 2, North Wing,
Harrington Road, Chetpet, Chennai - 600031.

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Medical Services Corporation Ltd.,
No. 417, Pantheon Road, Egmore,
Chennai - 600 008.

2.State Of Tamil Nadu,
Rep By Its Addl.Chief Secretary,
Dept of Health And Family Welfare,
Secretariat, Fort St. George, Chennai - 600 009.



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3.M/S. Solokrafs Industries,
Having Its Office At:
No.69, McNichols Road,
Off Poonamallee High Road, Chetpet,
Chennai - 600 031,
Tamil Nadu, India.

4.Madras Surgicals And Chemicals,
Rep By Its Proprietor,
No. 9-A, VGP Selva Nagar,
1st Main Road, Velachery, Chennai - 600042.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the tender No. E966/ANS/RC/TNMSC/ENGG/2023 dated 18th April, 2023, quash the same consequently and direct the 1st Respondent to consider the representation dated 29.01.2024 of the petitioner Company and accordingly finalise the tender awarding in a fair and transparent manner by duly considering the tender specifications and the Petitioner Company's bid.

For Petitioner : Mr.Krishna Ravindran for
Mr.P.Kavin Prabhu

For Respondents : Mr.V.M.Shivakumar for
M/s.Sivakumar & Suresh [R.1]

: Mr.M.Bindran, AGP, [R.2]

: Mr.Dhanaram Ramachandran for
M/s. D.R. Law Chambers [R.3]

: No appearance [R.4]



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ORDER

The writ petition has been instituted to quash the tender notification dated 18.04.2023 and to direct the first respondent to consider the representation dated 29.01.2024, submitted by the petitioner company and accordingly, finalise the tender award, in a fair and transparent manner by duly considering the tender specifications.

2. At the first instance, it is brought to the notice of this Court that the petitioner is not a tenderer, responded to the tender notification, dated 18.04.2024. The petitioner is a manufacturer and the learned counsel for the petitioner would submit that the agent of the petitioner has submitted an application to participate in the tender.

3. The scope of interference in the tender notifications, in exercise of the powers of the judicial review by the High Court is limited. The technical aspects raised by the petitioner cannot be adjudicated in the present writ proceedings. The apprehension of the petitioner is that the respondents are attempting to finalise the tender without following the tender specifications. It is needless to state that the tender specifications, the terms and conditions stipulated are to be scrupulously followed.



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4. The learned counsel for the respondent would oppose by stating that the petitioner is not a participant and therefore, the writ petition is not maintainable. Further, the technical specifications will be assessed by the expert body and accordingly, the tender will be finalised. Terms and conditions are stipulated to safeguard the interest of the respondents and in the event of violations, all suitable actions are to be initiated. Therefore, the grounds raised in this context are presumptive in nature and thus, the writ petition is to be rejected.

5. This court is of the considered opinion that the contentions raised by the petitioner that the technical specifications are not followed, deserves no merit adjudication in the present writ proceedings. The first respondent states that they have taken adequate measures to safeguard the interest of the medical institutions and in the event of any default or error, all suitable actions are to be initiated. Terms and conditions are stipulated so as to ensure that safe products are supplied to the medical institutions and thus, the apprehension of the petitioner is based on presumptions and assumptions.



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6. The staling of tender notifications in such matters, where medical equipments are to be supplied, the repercussions being large and the hospitals may not be in a position to provide quality treatment to the patients who all are attending the hospitals.

7. In view of the facts and circumstances, the petitioner has not raised any acceptable ground for the purpose of interfering with the tender notification. The respondents shall proceed with the process and complete the same as expeditiously as possible by following the due process.

8. Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

(sha)

25.04.2024

Index : Yes

Speaking Order

Neutral Citation : Yes

To

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S.M.SUBRAMANIAM. J.,

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