



WEB COPY

W.P.No.7334 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.7334 of 2024
and
W.M.P.No.8216 of 2024

M/s.Bidhisha Sri Builder
Rep. By its Managing Partner A.Karmegam
Male / Age 53 years,
S/o.Angappan
No.18-b, Markabandhu Street, Peramanur,
Salem District.

.. Petitioner

VS

- 1.The State of Tamil Nadu
Rep. By its Principal Secretary to Government,
Public Works Department (PWD),
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The Engineer-in-Chief Engineer (Buildings),
Public Works Department,
Chepauk, Chennai – 600 005.
- 3.The Chief Engineer (Buildings),
Public Works Department,
Coimbatore Region, Coimbatore District.
- 4.The Superintending Engineer,
Public Works Department (PWD),
Buildings Construction and Maintenance Circle,
Salem District, Salem.
- 5.The Executive Engineer,
Public Works Department (PWD)
Construction and Maintenance (C&M) Division,
Salem District, Salem

.. Respondents



W.P.No.7334 of 2024

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the fourth respondent to issue the work order in favour of the petitioner in respect of the Tender Notice dated 19.02.2024 Notice : 33/2023-24/SE/B (C&M) C/SLM and without insisting the Site Visit Certificate.

For Petitioner : Mr.Abrar Md.Abdulla
for Mr.A.M.Esakkiappan

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

The petitioner has participated in the e-tender notification dated 19.02.2024 issued by the Superintending Engineer of the Public Works Department for construction of a new building for Sub-Registrar Office at Valapady in Valapadi Taluk Salem (East) District.

2. The tender was to be conducted online and the last date of submission was 12.03.2024 at 3.00 p.m. The tenders were to be opened on 13.03.2024 at 3 p.m. One of the tender conditions is that the tenderer must visit the work site and obtain a certificate from the concerned Executive Engineer, Public Works Department and such certificate must be uploaded along with tender documents. The bid is complete only if accompanied by the said certificate.



W.P.No.7334 of 2024

3. In the present case, the petitioner states in his affidavit that he has been approaching R4 for issuance of site visit certificate from 27.02.2024. However the statement is not supported by any material whatsoever and hence this Court is not inclined to accept the same.

4. The petitioner has submitted a request only on 12.03.2024 around 12.30 a.m. seeking issuance of site visit certificate. The necessity for site visit certificate is set out in the tender itself under the caption '*for the special attention of the applicants*' as follows:-

"1.Approval of the e-tender will be strictly based on the detailed evaluation done on the basis of the documents/ records/ evidences / certificates uploaded by the applicant. In case of any discrepancy the tender will be rejected.

2. In order to avoid misjudgment of materials availability, the tenderer should visit the proposed work site and inspect the quarries before quoting his rates, as prescribed in para No.8, Appendix I of Tamil Nadu Building practice, Volume – I. Further the tenderer should obtain a site visit certificate from the Executive Engineer, PWD and should upload the same with crucial documents. Otherwise the tender will be summarily rejected."

5. The site visit certificate which is made mandatory, is to ensure that the tenderer has visited the proposed work site and has inspected the quarries prior to quoting his rates. This is to pre-close any objections that may arise in this regard at a later date by the



W.P.No.7334 of 2024

tenderer.

WEB COPY

6. The petitioner has clearly been remiss and casual as he has sought issuance of site visit certificate only on the last date i.e., 12.03.2024. The respondents indicate that the request was made around 10.30 a.m and that the certificate was issued by R4 prior to 3 pm which is the cut-off time for submission of the bid.

7. The petitioner has, however, uploaded his bid at 12.00 noon without the site visit certificate, demonstrating utter lack of care. He has not even waited in the premises to ensure that site visit certificate was received by him, in time as other bidders are stated to have done.

8. Mr.Nanmaran, learned Special Government Pleader, on instructions, would submit that the Executive Engineer, PWD had issued the certificate at around 2 p.m. prior to the cut-off time for submission of bid and since the petitioner was not present, dispatched the same to the petitioner on the same date. Thus, the factual position in the present case is that the site visit certificate was issued by the respondents prior to 3 pm though it was in the possession of the respondents, rather than in possession of the petitioner.

9. For the aforesaid reason alone, I am inclined to rule in favour of the petitioner. The petitioner has sought a mandamus



W.P.No.7334 of 2024

directing R4 to issue Work Order in his favour, which prayer is rejected. Pending writ petition, the bids have been opened and the petitioner's bid has been rejected for lack of site visit certificate. There is no infirmity in order dated 18.03.2024 rejecting the petitioner's bid. However, in light of the above narration of facts, specifically seeing as the site visit certificate had been issued before 3 pm, R4 is directed to consider the bid of the petitioner in accordance with law and prevailing tender conditions.

10. This writ petition stands disposed in terms of this order.

No costs. Connected miscellaneous petition is closed.

19.03.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To

- 1.The Principal Secretary to Government,
Public Works Department (PWD),
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The Engineer-in-Chief Engineer (Buildings),
Public Works Department,
Chepauk, Chennai – 600 005.
- 3.The Chief Engineer (Buildings),
Public Works Department,
Coimbatore Region, Coimbatore District.



W.P.No.7334 of 2024

4.The Superintending Engineer,
Public Works Department (PWD),
Buildings Construction and Maintenance Circle,
Salem District, Salem.

5.The Executive Engineer,
Public Works Department (PWD)
Construction and Maintenance (C&M) Division,
Salem District, Salem



WEB COPY



W.P.No.7334 of 2024

DR. ANITA SUMANTH,J.

ssm

W.P.No.7334 of 2024

19.03.2024