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W.P.No.14544 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.14544 of 2024 and
WMP.Nos.15841, 15843, 15842 of 2024

M/s GCKC Projects and Works Private Limited,
Having its Registered Office at
#B-1, Gajel Apartments,
58, Greams Road,
Chennai – 600 006.

Also having office at:
24, Mission Compound, Ajmer Road,
Jaipur, Rajasthan – 302 001
Rep. By its Authorized Signatory

.. Petitioner

VS

1.Chennai Metropolitan Water Supply
and Sewerage Board (CMWSSB),
Rep. By its Managing Director,
4th Floor, No.1, Pumping Station Road,
Chinthadripet,
Chennai – 600 002.

2.The Superintending Engineer
(Contracts and Monitoring)
Chennai Metropolitan Water Supply
and Sewerage Board (CMWSSB),
Office of the Superintending Engineer
(Contracts and Monitoring)
4th Floor, No.1, Pumping Station Road,
Chinthadripet, Chennai – 600 002

.. Respondents



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Prayer : Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned Technical Evaluation Summary dated 09.05.2024 issued by the respondents, arising out of Bid Document for 'Comprehensive Operation and Maintenance of 530 MLD Water Treatment Plant with pulsator clarifiers at Chembarambakkam for a period of 7 years vide Tender Reference no. CNT/WSS/NCB/MWB/3526A/2023-24' dated 06.10.2023 and quash the same and consequently cancel Tender Reference No. CNT/WSS/NCB/MWB/3526A/2023-24 dated 06.10.2023 and call for retendering and pass such other or further orders as may be deemed fit.

For Petitioner : Mr.A.K.Sriram, Senior Counsel
For Mr.P.Giridharan
For Respondents : Mr.Krishna Ravindran,

ORDER

The challenge is to a Technical Evaluation Summary dated 09.05.2024 arising out of a bid document for 'Comprehensive Operation and Maintenance of 530 MLD Water Treatment Plant with pulsator clarifiers at Chembarambakkam' for a period of 7 years. The bid of the petitioner had been submitted on 06.10.2023 in response to a tender notice bearing reference No. CNT/WSS/NCB/MWB/3526A/2023-24



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dated 06.10.2023.

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2. The technical bid had been opened on 08.11.2023 and from 15.11.2023 to 22.04.2024, the parties had been in discussion seeking clarifications on the one hand and offering explanations on the other. The impugned order ultimately rejected the petitioner's bid on 09.05.2024 as being technically non-responsive.

3. Detailed submissions of Mr.A.K.Sriram, learned Senior Counsel appearing for Mr.P.Giridharan, learned counsel on record for the petitioner and Mr.Krishna Ravindran, learned counsel for the respondents have been heard.

4. The substratum of the petitioner's submissions are to the effect that the rejection has been hasty and arbitrary. The petitioner was given to understand that the bid was under active consideration, particularly since a letter was received from the respondents on 18.04.2024 seeking extension of the validity period from 30.04.2024 to 31.07.2024.

5. Some efforts are also made by the petitioner to persuade the Court in regard to the technical feasibility of the petitioner's bid. This Court, however, would eschew any such attempts for the reason that it does not claim familiarity with the technical aspects of the matter. In fact



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in this matter there is an effective alternate remedy in terms of Section 11 of the Tamil Nadu Transparency in Tenders Act, 1998 (in short 'Act'), which provides for filing of appeal as against the order of rejection.

6. In the case of *Tata Motors Limited V. The Brihan Mumbai Electric Supply & Transport Undertaking (Best) and others* (2023 Live Law (SC) 467), the Supreme Court has cautioned the Courts from the havoc caused by the needless interference in commercial matters, as they say, '*most of us in Judges' robes do not have the necessary expertise to adjudicate upon technical issues beyond our domain*'.

7. Thus, while declining to interfere with the impugned order, the petitioner is given full liberty to avail the benefit of statutory appeal under Section 11 of the Act. The remedy under Section 11 is only in terms of an order passed under Section 10, which is an order of Evaluation and acceptance of tender. Hence, such a remedy would kick in only when the final award of contract is made.

8. Thus the petitioner is granted full liberty to challenge the final award as and when made. It is made clear that the respondents will upload the order of acceptance as and when made and appeal, if any, filed as against the same by the petitioner shall be decided expeditiously,



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in accordance with law and all extant Rules and Regulations, after hearing the petitioner.

9. This Writ Petition is disposed in terms of this order. No costs.

Connected Miscellaneous Petitions are closed.

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Index: Yes/No

Neutral Citation: Yes

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To

1.The Managing Director,
Chennai Metropolitan Water Supply
And Sewerage Board (CMWSSB),
4th Floor, No.1, Pumping Station Road,
Chinthadripet,
Chennai – 600 002.

2.The Superintending Engineer
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DR. ANITA SUMANTH,J.

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