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W.P.No.20218 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.20218 of 2020 & 21322 of 2021

and

W.M.P.Nos.24992 & 24915 of 2020 and 22558 & 22560 of 2021

TANGEDCO Power Contractors &
Tiny Suppliers Association,
(Regn.No.8/2019),
Rep. by its President J.Belavendren,
Functioning at
No.T-35, 2nd Main Road,
Sri Rangam New Town,
Wimco Nagar, Chennai – 600 057.

Petitioner in
W.P.No.20218 of 2020

Erode Regional EB Registered
Contractors Association,
(Regn No.SRG/Gobichettipalayam/21/2019)
Rep. by its President P.Stalin,
No.5, Anugraha Complex,
Mettur Dam,
Railway Station Road,
Salem District.

Petitioner in
W.P.No.21322 of 2021

Vs

1. The Chairman cum Managing Director,
TANGEDCO,
10th Floor, N.P.K.R.R.Maligai,
144, Anna Salai,
Chennai – 600 002.



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2. The Chief Engineer/Personnel,
TANGEDCO,
10th Floor, N.P.K.R.R. Maligai,
144, Anna Salai,
Chennai – 600 002

.... Respondents in both W.Ps

Common Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records relating to the proceedings CMD TANGEDCO Proceedings No.77, dated 24.11.2020 issued by the second respondent in engaging an outside agency at the rate of RS.2.50/- per man day/per month with minimum charges of Rs.500/- and maximum charges of Rs.4,000/- and Rs.300/- for re-audit in which all the expenses engaging the outside agency shall be borne by the contractors alone and quash the above proceedings.

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For Petitioner : Mr.M.Jayaraman
For Respondents : Mr.Karthik Rajan
Standing Counsel

W.P.No.21322 of 2021

For Petitioner : Mr.C.Munusamy
For Respondents : Mr.A.P.Venkatesh Prasad
for M/s.T.S.Gopalan & Co

COMMON ORDER

Both the writ petitions have been filed challenging the proceedings of the second respondent dated 24.11.2020, thereby engaging an outside agency at the rate of RS.2.50/- per man day/per month with minimum charges of Rs.500/- and maximum charges of



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Rs.4,000/- and Rs.300/- for re-audit in which all the expenses engaging the outside agency shall be borne by the contractors.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. In both the writ petitions, the petitioners' Associations are formed by the contractors who carry out civil, mechanical and electrical works on contract basis in the respondent Corporation. While being so, the first respondent passed the Proceedings No.77, dated 24.11.2020 for implementation of the Cloud Audit Digital based Compliance Services Audit/Contract Compliances through online platform in all the circles of TANGEDCI/TANTRANSCO by bringing in an outside agency. The required documents should be submitted through online by the respective contractors. Such applications with documents for the Statutory Compliance Clearance Certificate will be allocated to one of the online Compliance Service Providers, in the panel, in an automatic digital rotation method. The charges which was mentioned in the proceedings should be paid by the respective contractors through online.



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4. Therefore, the petitioners Association had raised objections that all the statutory obligations such as ESI, EPF, Minimum wages, Payment of Wages etc. The respondents also did not make any payment to the individual contractors on monthly basis, the respondents also did not supervise the disbursement of wages. That apart, all the individual contractors have appointed individual consultants for all the statutory compliance and further claiming charges.

5. A perusal of the counter affidavit filed by the respondents reveals that the requirement to submit the records for audit arises out of a pure contractual relationship and merely because the respondent is a Government entity, the writ petition itself is not maintainable. Further in all the tenders floated by the respondents from 01.01.2021, there was an explicit clause which mandates the concerned contractors to submit themselves to an audit and also the cost of audit needs to be borne by them. Therefore, it is a part of the contractual obligations. Any parties willing to accept these terms can apply. Therefore, the tender condition cannot be questioned at the instance of any proposed party merely because it does not consider it suitable. Such conditions cannot be termed as irrational or opposed to public policy or



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unconscionable. The mechanism has been put in place based on past experience to ensure proper compliance of various statutory obligations under various laws including labour laws and also to prevent any liability or adverse consequences arising out of improper compliance by the contractors. That apart, the tender which is under question was challenged in the year 2020 itself, thereafter the respondents had agreed the approval to reimburse the charges claimed by the petitioners for obtaining statutory clearance on or before 31.12.2020. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent. Thus, both the writ petitions are devoid of merits and are liable to be dismissed.

6. Accordingly, both the writ petitions stand dismissed.

Consequently, connected miscellaneous petitions are closed. No costs.

03.04.2024

Internet : Yes

Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No

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To

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G.K.ILANTHIRAIYAN, J.

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