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W.P.No.22158 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 22158 of 2024

and

W.M.P.Nos.24138 & 24140 of 2024

Amman Magalir Suya Udhavi Kulu,
ID No.0752001002,
G.K.Karattur,
Panaimarathupatti Region,
Salem District,
Rep. by it Member
P.Subha

.... Petitioner

Vs

The Commissioner,
Narasingapuram Municipality,
Attur Taluk,
Salem District.

.... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for a records relating to tender notification in limited E-Tender in notification in Na.Ka.No.2283/2024/H1 dated 22.07.2024 on the file of the respondent and quash the same and direct the respondent to float open tender in order to participate the petitioner in the tender after following the procedure laid down under the Tamil Nadu Transparency in Tenders Act and Rules.

For Petitioner : Mr.S.Doraiswamy

For Respondents : Dr.T.Seenivasan



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Special Government Pleader

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ORDER

This Writ Petition has been filed challenging the tender notification dated 22.07.2024.

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

3. The petitioner is a self-help group, consisting of 17 members. The respondent issued notification calling for tenders to supply man power for Dengu breeding checking work for Narasingapuram Municipality. The petitioner had participated in the tender and was declared as successful bidder. Accordingly, the petitioner was issued work allotment order dated 26.09.2022 for a period of three months. It was periodically extended by the respondent till 31.07.2024.

4. While being so, the respondent issued tender notification through its web portal for the work to supply man power for Dengu breeding checking work for Narasingapuram Municipality. It has been challenged on two grounds i.e., (i) as per Section 11(2) of the Tamil Nadu Transparency in Tenders Rules, 2000, the Tender Inviting Authority shall



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have the notice inviting tenders published in daily newspapers. The number, editions and language of the newspapers in which the notice inviting tenders shall be published will be based on the value of procurement as specified in the Annexure. The tender notification was not published in any of the daily newspapers and (ii) as per Section 20(1) of the Tamil Nadu Transparency in Tenders Rules, 2000, the Tender Inviting Authority shall ensure that adequate time is provided for submission of tenders and a minimum time is allowed between the date of publication of the notice inviting tenders in the relevant tender bulletin or in the newspapers whichever is later and the last date for submission of tenders. The minimum period shall be as follows :

- (a) For tenders upto Rs.2 crore in value, fifteen days ; and
- (b) For renders in excess of Rs.2 crore in value, thirty days.

5. Accordingly, the tenders upto Rs.2 crore in value, time for submission of tender is fifteen days. If more than Rs.2 crore, the time for submission of tender is thirty days. In the case on hand, the tender was floated for the value of Rs.19,50,000/-. Therefore, it requires minimum fifteen days for submission of tenders, insofar as the first ground raised by the petitioner.



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6. On instructions, the learned Special Government Pleader submitted that as per G.O.Ms.No.93, Finance (Salaries) Department, dated 30.03.2023, the Rule 4-A of Tamil Nadu Transparency in Tenders Rules, 2000, the Government may mandate procuring entities to do procurement through electronic mode through web portals as may be specified by order. Accordingly, the tendering activities shall include all stages of procurement from floating the bid upto generating and issuing the letter of award. The tendering activities shall be done through the web portal of the respondent. Accordingly, the respondent floated the tender notification through its web portal and as such the first ground raised by the petitioner cannot be countenanced. For the second ground raised by the petitioner, the learned counsel for the respondent pointed out that as per Section 20(2) any rejection in the time stipulated as per sub-rule(1) has to be specifically authorised by an authority superior to the tender inviting authority for reasons to be recorded in writing. Therefore, due to emergency, the period of tender has been reduced to seven days. That apart, the petitioner is an erstwhile Director and he failed to pay EPF and ESI amount for his employees. The petitioner also failed to produce any receipt for EPF and ESI. Therefore, the petitioner



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cannot challenge the tender notification.

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7. On perusal of the tender notification revealed that there is absolutely no reason stated for reducing tender period from fifteen days to seven days as per Rule 20(2) of the Tamil Nadu Transparency in Tenders Rules, 2000. As per Rules, the tendering authority, viz., the respondent, obtained approval from its superior for the reason to reduce the period for submission of tender. There is whisper about the approval or the reasons for reducing the period of submission of tender from fifteen days to seven days. Therefore, on the second ground, the impugned tender notification cannot be sustained and it is liable to be quashed.

8. Accordingly, tender notification dated 22.07.2024 on the file of the respondent is hereby quashed and the writ petition is allowed. The respondent is at liberty to float a fresh tender notification in accordance with law. Consequently, connected miscellaneous petitions are closed. No costs.

23.08.2024

Internet : Yes

Index : Yes/No

Speaking/Non-speaking order



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Neutral Citation : Yes/No

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To

The Commissioner,
Narasingapuram Municipality,
Attur Taluk,
Salem District.



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G.K.ILANTHIRAIYAN, J.

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