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W.P.No.23591 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.23591 of 2024

and

W.M.P.Nos.25804, 25805 & 25807 of 2024

M/s.RK & Sons,
Civil Engineers & Contractors,
A Partnership Firm Rep by its Partner G. Ashwin Balaji
Having head office at RK Tower,
Door No.9/1, 1st Floor,
Sundarar Road,
Fairlands,
Salem – 636 016. ... Petitioner

Vs.

- 1.The Chennai Metropolitan Development Authority (CMDA)
(construction Wing),
Rep. By its Member Secretary,
Tower – III,
First Floor, 'A' Block,
CMDA Office Complex,
'E' Road, Koyambedu,
Chennai – 107.
- 2.The Superintending Engineer, (CMDA),
Circle – II, Construction Wing,
First Floor, 'A' Block,
CMDA Office Complex,
'E' Road, Koyambedu,



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Chennai- 107.

3.The Tender Evaluation Committee,
Rep. By its Chairperson Superintending Engineer (II),
First Floor, 'A' Block,
CMDA office complex,
'E' Road, Koyambedu,
Chennai – 107.

4.Executive Engineer – III, CMDA
Division III, Construction Wing,
CMDA, Chennai – 600 107.

5.M/s.RR Constructions,
Rep. by its Authorised Signatory,
69/1, Ruby House,
Hunters Road, Choolai,
Chennai – 600 112.

6.M/s.SJ Infra,
Rep. by its Authorised Signatory,
No.09, Chetty Street,
Perittivakkam Village,
Pondhavakkam Post,
Uthukottai Taluk,
Thiruvallur – 602 026.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Tender Summary Report dated 05.08.2024 bearing Tender ID 2024 _CMDAC_463057_1 relating to the Concrete Pavement Road work at Sathangadu Chennai 68 ("Impugned Summary Report") issued by the 2nd respondent and quash the same as illegal and



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consequently direct the Respondents 1 and 2 to call for fresh tenders in respect of the works relating to Concrete Pavement Road work at Sathangadu, Chennai 68 by complying with the provisions of the Tamil Nadu Tender Transparency Act, 1998 ("the Act") and the Tamil Nadu Transparency in Tenders Rules, 2000 ("the Rules").

For Petitioner : Mr.N.S.Amogh Simha

For Respondents : Mr.Akhil Akbar Ali
Standing Counsel [R1 to R4]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Tender Summary Report dated 05.08.2024 bearing Tender ID 2024 _CMDAC_463057_1 relating to the Concrete Pavement Road work at Sathangadu Chennai 68 ("Impugned Summary Report") issued by the 2nd respondent and quash the same as illegal and consequently direct the Respondents 1 and 2 to call for fresh tenders in respect of the works relating to Concrete Pavement Road work at Sathangadu, Chennai 68 by complying with the provisions of the Tamil Nadu Tender Transparency Act, 1998 ("the Act") and the Tamil Nadu Transparency in Tenders



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Rules, 2000 ("the Rules").

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2. The case of the petitioner is that, it is a registered partnership firm having been originally registered with the Registrar of Firms on 18.12.1979 in Reg.No.242 of 1979. It is a Class-I Government Contractor (monetary value of Rs.75 Lakhs and above in State Level) registered with various departments of the Government of Tamil Nadu such as the Highways Department (NH), Water Resources Department ("WRD") and the Public Works Department ("PWD"). Whiles, on 11.07.2024, the 1st respondent, through the 2nd respondent, the Tender Inviting Authority, invited e-tenders "bids under two cover system through online" vide an E-Tender Notice bearing number Short Tender Notice No.07/2024-2025 (in short 'tender notice') dated 11.07.2024. As per the tender notice, the tender documents were made available free of cost for downloading from 15.07.2024 to 29.07.2024 upto 3.00 p.m., the last date for submitting the bids was fixed on 29.07.2024 at 3.00 p.m. Thereafter, the petitioner had addressed a letter to the 2nd respondent requesting for issuance of the machinery working condition certificate vide letter No.RK&SONS/Machinery/07-2024/01 dated 20.07.2024 and the



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petitioner also submitted a letter on 23.07.2024 along with the photos of site visit requesting the 2nd respondent to issue a site visit certificate. Both the letters were served by hand delivery, thereby, he received the acknowledgement from the person available in the office of the respondents 2 and 4. However, the petitioner's tender was rejected on the ground that the petitioner has not annexed machinery working condition certificate and the site visit certificate vide impugned summary report dated 05.08.2024. Challenging the same, the petitioner has filed the above writ petition before this court.

3. Learned counsel for the petitioner submits that, though the petitioner not annexed the machinery working condition certificate and site visit certificate along with the tender application on 20.07.2024 and, the applications for machinery working condition certificate and site visit certificate were filed on 20.07.2024 and 23.07.2024, however, not obtained any acknowledgment from the office of the respondents 2 and 4. The fact that the said applications were delivered by hand delivery to the person available in the office of the respondents 2 and 4 cannot be held against the petitioner. Further, the 2nd respondent refused to issue the said



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certificate to the petitioner, which also cannot be put against the petitioner. Accordingly, he prays for allowing the writ petition.

4. Learned Standing Counsel appearing on behalf of respondents 1 to 4 submitted that, the bid document is available from 11.07.2024 itself, however, the petitioner claims that he is able to download the document only on 15.07.2024. Even then, he took time for making tender application with the 2nd respondent. He further submitted that the petitioner claims that on 20.07.2024, application for issuance of machinery working condition certificate was made and on 23.07.2024, application for issuance of site visit certificate was made, however, no proof was filed before this court in order to prove the same and in respect of the person, who received the letters from the petitioner on behalf of the respondents 2 and 4. Further, he submitted that the said two certificates are mandatory and the same should have been filed along with the tender application, which cannot be dispensed with, thereby the tender application of the petitioner was rejected by the 2nd respondent, which does not require any interference. Accordingly, he prays for dismissal of the writ petition.



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5. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents 1 to 4 and perused the materials available on record.

6. Admittedly, the petitioner is a registered partnership firm and it is a Class-I Government Contractor (monetary value of Rs.75 lakhs and above in State level) registered with various Departments of the Government of Tamil Nadu. It is also not in dispute that the petitioner had submitted the technical bid on 29.07.2024 without the machinery working condition certificate and the site visit certificate. It is claimed by the learned Standing Counsel appearing for the respondents 1 to 4 that the bid document is available from 11.07.2024 itself, however, the petitioner claims that he is able to download the document only on 15.07.2024. Further, the petitioner claims that he made an applications for issuance of machinery working condition certificate on 20.07.2024 and site visit certificate on 23.07.2024 by hand delivery and the same has been acknowledged by the office of the respondents 2 and 4 by affixing a signature. However, in order to prove that he has submitted the letters by



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hand delivery in the office of the respondents 2 and 4, no proof was filed before this court and no details was placed with regard to the person, who received the letters from the petitioner on behalf of the respondents 2 and 4. Since the said two certificates are mandatory, the petitioner ought to have submitted the tender application along with those certificates, however, the petitioner has not done so, thereby the tender application of the petitioner was rejected by the 2nd respondent. Hence, this court is not inclined to interfere with the impugned tender summary report dated 05.08.2024 and this writ petition is liable to be dismissed.

7. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected writ miscellaneous petitions are closed.

22.08.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.

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