IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.12.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.25982 of 2024
WMP.Nos.28372 and 28375 of 2024

V.Thilahar Singh

..... petitioner

Vs.

1.The Secretary,
State of Tamil Nadu,
Home Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Director General of Police/Commissioner of Police,
O/o.The Director General of Police/Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai – 600 007.

..... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to the disqualification of the petitioner notified in the GeM Portal on 30.08.2024 under the nomenclature of "Technical Evaluation History" dated 30.08.2024 and quash the same and consequently direct the 1st respondent to restore the petitioner's eligibility to participate in the tender bearing Bid Number:GEM/2024/B/5053391, dated 14.06.2024 invited tenders for cleaning, Sanitation and Disinfection Service – outcome Based – Office/Commercial/Institutions/Residential:General cleaning (Sweeping, Mopping, Dusting); Indoor.

For petitioner : Mr.T.Gowthaman
for Dr.S.Karpagapriya

For Respondents :Mr.P.Kumaresan
Additional Advocate General
for Mr.G.Ameedius
Government Advocate for R1
Mr.L.Baskaran
Government Advocate (Crl.side) for R2

ORDER

This writ petition is filed challenging the order passed by the first respondent rejecting the bid submitted by the petitioner under technical evaluation.

2. It is the case of the petitioner that it is a proprietary concern involved in the business of Manpower services. The second respondent issued a notice inviting tender for House keeping, Cleaning and Maintenance of Greater Chennai Police Commissionerate building. The

petitioner submitted his bid along with necessary documents as per the tender conditions on 24.06.2024. The first respondent passed impugned order on 30.08.2024, rejecting the petitioner's bid on technical evaluation. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel appearing for the petitioner submits that the bid submitted by the petitioner was rejected by the first respondent on three grounds namely:

(i) Failure to pay the amount of Earnest Money Deposit (EMD);

(ii) Failure to submit registration certificate;

(iii) Failure to submit declaration regarding Non-liquidation.

4. The learned counsel further submits that the petitioner is a MSME registered with UDYAM portal of Ministry of Micro, Small and Medium Enterprises, Government of India, involved in providing house keeping services. Therefore, the petitioner is not required to deposit an earnest money as per the tender conditions.

5. The learned counsel further submitted that the petitioner is a proprietary concern and the petitioner is not a firm or a company registered under relevant enactments. Hence, there is no necessity for the petitioner to produce any registration certificate. He further submitted that the petitioner produced UDYAM registration certificate and the same has not been considered by the first respondent. The learned counsel further submitted that the petitioner has submitted Income Tax Return along with certificate of Auditor and self declaration regarding the petitioner's solvency. Therefore, the third reason given for rejection is also not valid.

6. Mr.P.Kumaresan, learned Additional Advocate General appearing for the 1st respondent drawn the attention of this Court to clause V of the tender conditions that the bid submitted by a bidder was rejected as he also failed to upload any certificate/documents as required by the tender conditions.

7. It is the case of the respondents that the petitioner failed to

pay the earnest money deposit and therefore, the bid submitted by the petitioner is liable to be rejected. Further it is also stated that the registration certificate produced by the petitioner was valid only up to 30.06.2022 and the bid was submitted on 14.06.2024. Therefore, on date of submission of the bid, the registration certificate issued in favour of the petitioner was not a valid document.

8. A perusal of the tender condition included in the typed set of papers would suggest that there is an exemption for deposit of earnest money which reads as follows:

> *(a) EMD EXEMPTION: The bidder seeking EMD exemption, must submit the valid supporting document for the relevant category as per GeM GTC with the bid. Under MSE category, only manufacturers for goods and service providers for service are eligible for exemption from EMD. Traders are excluded from the purview of this policy.*

9. A perusal of the same, would indicate the bidders who are MSE engaged in manufacturing of the goods and service providers for

service are entitled to exemption from earnest money. A perusal of the UDYAM Registration Certificate submitted by the petitioner would suggest that the petitioner is registered with Udyam and therefore it is a MSE. A perusal of the registration certificate would also indicate the petitioner is engaged in manufacturing and house keeping services. Therefore, the petitioner is entitled to claim exemption from deposit of earnest money. Therefore, the first reason given in the impugned order for rejection of the bid is not valid.

10. The learned Additional Advocate General vehemently contended by relying on the Udyog Aadhaar Memorandum (UAM) Certificate submitted by the petitioner that the said certificate was valid only up to 30.06.2022 and the bid of the petitioner was submitted on 14.06.2024 and hence, the certificate issued by the petitioner was not valid on the date of submission by the petitioner. The said submission made by the learned Additional Advocate General is not acceptable to this Court because of the UDYAM Registration Certificate submitted by the petitioner, which is available at page No.35 of the typed set of papers.

11. A perusal of the same would suggest that the petitioner was registered as MSE and the registration certificate does not exhibit any validity date. The registration certificate would further indicate that the petitioner was registered with UDYAM portal on 07.08.2021 and no validity period is mentioned in the certificate. Therefore, the submission made by the learned Additional Advocate General that on the date of submission of the bid namely 14.06.2024, the petitioner did not possess the valid registration certificate is not acceptable to this Court. Therefore, the second reason given in the impugned order is also rejected. It is also pertinent to mention that petitioner is a proprietary concern and hence registration with UDYAM portal is sufficient and no other registration certificate as in the case of firm or company will be available with the petitioner.

12. As far as the 3rd reason given in the impugned order is concerned, the petitioner has submitted Income Tax return along with

certificate issued by the auditor mentioning the turnover of the petitioner concerned for three years namely 2020-2023 which reads as follows:

S.No	***Financial Year***	***Annual Turnover in Rupees***
1.	2020-2021	48000780.00
2.	2021-2022	85748355.00
3.	2022-2023	150182740.00

13. A perusal of the auditor's certificate and the Income Tax return filed by the petitioner would establish the solvency of the petitioner and therefore, the 3rd reasoning given by the respondent for rejecting the bid of the petitioner is not acceptable to this Court.

14. In view of the discussions made earlier, the impugned order passed by the first respondent is set aside. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

18.12.2024

Index : Yes/No
Speaking order:Yes/No

Neutral Citation:Yes/No
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S.SOUNTHAR, J.

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