



WEB COPY



W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2024

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR, J.

W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024
and

W.M.P.Nos.33041, 33042, 30343, 33048, 33045, 33047, 33050, 33054,
33052 & 33053 of 2024

W.P.No.30342 of 2024:

M/s. SGK BLUE METALS,
Partnership Firm, represented
by its Partner S.N.Palanisamy,
5/250 A, Narasingapuram,
Udumalpet, Tiruppur – 642111.

... Petitioner

..Vs..

- 1.The Secretary,
Government of Tamil Nadu,
Highways & Minor Ports Department,
Fort St.George, Secretariat,
Chennai – 600 009.
- 2.The Divisional Engineer (H),
Highways Department,
Construction & Maintenance,
Dharapuram Division, Tiruppur District.
- 3.The Divisional Engineer (H), (QC)



W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024

WEB COPY

Highways Department,
Construction & Maintenance,
Dharapuram Division, Tiruppur District.

4. K. Palanichamy & Co,
R.O.254/1, 252/2, 3,
Suthukaradu, Perode Village,
Chithode, Erode
Tamil Nadu – 638 102.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for all the records in the Tender Summary Reports published for Tender No.10/2024-2025/SDO Dated 28.08.2024 and to quash the rejection of Petitioner's Bid in Bid No.1144803, and consequently, quash the acceptance of Bid No.1142538, dated 25.09.2024 as lowest Tenderer L1 by the 2nd respondent and direct the 1 to 3 respondents to reconsider the bid of the petitioner in the said Tender in accordance with law without insisting the work site inspection certificate to be issued by the Third Respondent and decide the Tender as per the provisions of the Tamil Nadu Transparency of Tender Act and Rules.

W.P.No.30343 of 2024:

M/s. SGK BLUE METALS,
Partnership Firm, represented
by its Partner S.N.Palanisamy,
5/250 A, Narasingapuram,
Udumalpet, Tiruppur – 642111.

... Petitioner

..Vs..

1.The Secretary,
Government of Tamil Nadu,
Highways & Minor Ports Department,
Fort St.George, Secretariat,
Chennai – 600 009.
2.The Superintendent Engineer (H),



W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024

Highways Department, Construction & Maintenance,
39, College Road, Tiruppur – 641 602.

WEB COPY

3. The Divisional Engineer (H), (QC)
Highways Department,
Construction & Maintenance,
Dharapuram Division,
Tiruppur District – 638 656.

4. M/s. Senthil Raj & Co,
No.22 Ther Nilayam, Pollachi (Ho),
Pollachi – 642 001
(Corporation Daily Market)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for all the records in the Tender Summary Reports published for Tender No.09/2024-2025/HDO Dated 24.08.2024 and to quash the rejection of Petitioner's Bid in Bid No.1144719, dated 03.10.2024 and consequently, quash the acceptance of Bid No.1141710 as lowest Tenderer L1 by the respondents and direct the respondents to reconsider the bid of the petitioner in the said Tender in accordance with law without insisting the work site inspection certificate to be issued by the Third Respondent and decide the Tender as per the provisions of the Tamil Nadu Transparency of Tender Act and Rules.

W.P.No.30344 of 2024:

M/s. SGK BLUE METALS,
Partnership Firm, represented
by its Partner S.N.Palanisamy,
5/250 A, Narasingapuram,
Udumalpet, Tiruppur – 642111.

... Petitioner

..Vs..

1. The Secretary,



W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024

WEB COPY

Government of Tamil Nadu,
Highways & Minor Ports Department,
Fort St.George, Secretariat,
Chennai – 600 009.

2.The Superintendent Engineer (H),
Highways Department,
Construction & Maintenance,
39, College Road, Tiruppur – 641 602.

3.The Divisional Engineer (H), (QC)
Highways Department,
Construction & Maintenance,
Dharapuram Division,
Tiruppur District – 638 656.

4. M. Ramasamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for all the records in the Tender Summary Reports published for Tender No.10/2024-2025/HDO Dated 27.08.2024 and to quash the rejection of Petitioner's Bid in Bid No.1144706 and consequently, quash the acceptance of Bid No.1143846, dated 03.10.2024 as lowest Tenderer L1 by the respondents and direct the respondents to reconsider the bid of the petitioner in the said Tender in accordance with law without insisting the work site inspection certificate to be issued by the Third Respondent and decide the Tender as per the provisions of the Tamil Nadu Transparency of Tender Act and Rules.

W.P.No.30345 of 2024:

M/s. SGK BLUE METALS,
Partnership Firm, represented
by its Partner S.N.Palanisamy,



W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024

5/250 A, Narasingapuram,
Udumalpet, Tiruppur – 642111.

... Petitioner

WEB COPY

..Vs..

1.The Secretary,
Government of Tamil Nadu,
Highways & Minor Ports Department,
Fort St.George, Secretariat,
Chennai – 600 009.

2.The Superintendent Engineer (H),
Highways Department,
Construction & Maintenance,
39, College Road, Tiruppur – 641 602.

3.The Divisional Engineer (H), (QC)
Highways Department,
Construction & Maintenance,
Dharapuram Division,
Tiruppur District – 638 656.

4. M/s. Senthil Raj & Co,
No.22 Ther Nilayam, Pollachi (Ho),
Pollachi – 642 001
(Corporation Daily Market)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for all the records in the Tender Summary Reports published for Tender No.15/2024-2025/HDO Dated 03.09.2024 and to quash the rejection of Petitioner's Bid in Bid No.1144787, dated 27.09.2024 and consequently, quash the acceptance of Bid No.1141139 as lowest Tenderer L1 by the respondents and direct the respondents to reconsider the bid of the petitioner in the said Tender in accordance with law without insisting the work site inspection certificate to be issued by the Third Respondent and decide the Tender as per the provisions of the Tamil Nadu Transparency of Tender Act and Rules.



W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024

W.P.No.30347 of 2024:

M/s. SGK BLUE METALS,
Partnership Firm, represented
by its Partner S.N.Palanisamy,
5/250 A, Narasingapuram,
Udumalpet, Tiruppur – 642111.

... Petitioner

..Vs..

1.The Secretary,
Government of Tamil Nadu,
Highways & Minor Ports Department,
Fort St.George, Secretariat,
Chennai – 600 009.

2.The Divisional Engineer (H),
Highways Department,
Construction & Maintenance,
Dharapuram Division,
Tiruppur District – 638 656.

3. The Divisional Engineer (H), (QC),
Highways Department,
Construction & Maintenance,
Dharapuram Division,
Tiruppur District – 638 656.

4. Sony Infra Solution,
Reg Off 3/74, Pappampalayam,
Karichipalayam (Po),
Tiruchengode – 637211.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Certiorarified Mandamus, to call for all the



W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024

records in the Tender Summary Reports published for Tender No.09/2024-2025/SDO Dated 27.08.2024 and to quash the rejection of Petitioner's Bid in Bid No.1144820, dated 25.09.2024 and consequently, quash the acceptance of Bid No.1143822 as lowest Tenderer L1 by the 2ns respondent and direct the 1 to 3 respondents to reconsider the bid of the petitioner in the said Tender in accordance with law without insisting the work site inspection certificate to be issued by the Third Respondent and decide the Tender as per the provisions of the Tamil Nadu Transparency of Tender Act and Rules.

For Petitioner in all WPs : Mr. M. Velmurugan

For R1 to R3 in all WPs : Mr. J. Ravindran,
Additional Advocate General
Assisted by Mr. C. Meera Arumugam,
Additional Government Pleader

COMMON ORDER

The above Writ Petitions are filed for Writ of Certiorarified Mandamus, to call for all the records in the Tender Summary Reports published for Tender No.10/2024-2025/SDO dated 28.08.2024 and to quash the rejection of Petitioner's Bid in Bid No.1144803, and consequently, quash the acceptance of Bid No.1142538, dated 25.09.2024; Tender No.09/2024-2025/HDO Dated 24.08.2024 and to quash the rejection of Petitioner's Bid in Bid No.1144719, dated 03.10.2024 and consequently, quash the acceptance of Bid No.1141710; Tender No.10/2024-2025/HDO Dated



27.08.2024 and to quash the rejection of Petitioner's Bid in Bid No.1144706 and consequently, quash the acceptance of Bid No.1143846, dated 03.10.2024; Tender No.15/2024-2025/HDO dated 03.09.2024 and to quash the rejection of Petitioner's Bid in Bid No.1144787, dated 27.09.2024 and consequently, quash the acceptance of Bid No.1141139 and Tender No.09/2024-2025/SDO dated 27.08.2024 and to quash the rejection of Petitioner's Bid in Bid No.1144820, dated 25.09.2024 and consequently, quash the acceptance of Bid No.1143822 as lowest Tenderer L1 by the 2nd respondent and direct the 1 to 3 respondents to reconsider the bid of the petitioner in the said Tender in accordance with law without insisting the work site inspection certificate to be issued by the Third Respondent and decide the Tender as per the provisions of the Tamil Nadu Transparency of Tender Act and Rules.

2. The Writ Petitioner is a Partnership Firm engaged in the business of carrying out Civil Engineering Works and recognized as Class-1 Contractor with the Tamil Nadu Highways Department. The second respondent has floated a Tender No.10/2024-25/SDO dated 28.08.2024 for “Special Repairs to the Road Branching at KM10/0 of Karatholuvu – Komaralingam Road to



WEB COURT

Sarkar” for a sum of Rs.45.20 Lakhs and Tender No.09/2024-25/HDO dated 24.08.2024 for “Widening and Strengthening from Two Lane with Paved Shoulders and Improvements to Riding Quality Works on Government Roads in Madathukulam (H), C & M Sub Divisions” for a sum of Rs.286.50 Lakhs and Tender No.10/2024-25/HDO dated 27.08.2024 for “Improvements to Riding Quality Reconstruction of Box Culvert Works on Government Roads in Madathukulam & Udumalpet (H), C & M Sub-Divisions” for a sum of Rs.263.80 Lakhs and Tender No.15/2024-25/HDO dated 03.09.2024 for “Special Repairs to Government Road in Udumalpet & Madathukulam (H), C & M Sub Division for 2024-25” for a sum of Rs.115.20 Lakhs and also Tender No.09/2024-25/SDO dated 27.08.2024 for “Special Repairs to Periyapatti Negamam Road Via Amanthakadavu at Km.15/2-16/500” for a sum of Rs.41.55 Lakhs.

3. The main contention of the writ petitioner is that one of the necessary ingredients to take part in the Tender is to get a Site Inspection Certificate, which has to be issued by the third respondent.

4. The case of the writ petitioner in W.P.No.30342/2024 is that the petitioner had requested the third respondent to come and visit the site on



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16.09.2024 and he has mailed the same request on 18.09.2024 and on 23.09.2024. Despite his earnest efforts in requesting the third respondent to visit the site and issue the Site Inspection Certificate, the third respondent has willfully failed to inspect the site as well as failed to issue the Site Inspection Certificate. The tenders were opened on 25.09.2024 at 08.16 pm and the tenders, which were the subject matter of W.P.No.30343/2024, W.P.No.30344/2024 and W.P.No.30345/2024 were opened on 25.09.2024 at 11.00 a.m and the tenders, which are the subject matter of W.P.No.30347/2024 were opened on 25.09.2024 at 08.16 p.m.

5. The bids of all the Writ Petitioners' were rejected as stated in the below Tabular Column:

<i>Bid Number</i>	<i>Bidder Name</i>	<i>Submitted Date</i>	<i>Status</i>	<i>Reason</i>
1144803	SGK Blue Metal	22-Sep-2024 6.35 p.m	Not Admitted- Fee/PreQual/ Technical/ Finance	Others-Worksite Inspection Certificate as per Corrigendum to Tender ID 2024_HWAY_4818284_1 dated 13.09.2024 in tender document is not enclosed.
1144719	SGK Blue Metal	22-Sep-2024 6.11 p.m	Rejected Technical	- Not Accepted
1144706	SGK Blue Metal	22-Sep-2024 6.11 p.m	Rejected Technical	- Not Accepted
1144787	SGK	22-Sep-2024	Not Admitted-	Others – Worksite Inspection



<i>Bid Number</i>	<i>Bidder Name</i>	<i>Submitted Date</i>	<i>Status</i>	<i>Reason</i>
	Blue Metal	6.23 p.m	Fee/PreQual/ Technical/ Finance	Certificate as per Corrigendum to Tender ID 2024-HWAY – 481972_1 dated 12.09.2024 is not enclosed in Tender Documents.
1144820	SGK Blue Metal	22-Sep-2024 6.45 p.m	Not Admitted- Fee/PreQual/ Technical/ Finance	Others – Worksite Inspection Certificate as per Corrigendum to Tender ID 2024-HWAY – 481754_1 dated 13.09.2024 in Tender Document is not enclosed.

6. The petitioners' contention is that since there is a cartel for the participation in the tender, the petitioners' bids were eliminated or rejected on the ground of non-enclosure of the Site Inspection Certificate.

7. Mr. J. Ravindran, learned Additional Advocate General, appearing for the respondents 1 to 3, would submit that the Site Inspection Report is the necessary document for considering the Tender. When the petitioner has not enclosed the Site Inspection Certificate in the Tender application, the petitioner's claim was rejected. Further, the Additional Advocate General has denied the allegation of cartel between the persons who have succeeded in the Tenders.



WEB COURT

8. In the matter of Tender process, the scope of this Court is very very limited. If the petitioner fails to establish that the bid of the petitioner was rejected for extraneous reasons, the scope of this Court to entertain the Writ Petition becomes very limited. Admittedly, the petitioner has not enclosed the Site Inspection Report though the petitioner contends that willfully the third respondent has not visited the site to give the Site Inspection Report.

9. The Additional Advocate General submitted that the work orders were issued in the tenders, which are the subject matter of W.P.No.30342 of 2024 and W.P.No.30343 of 2024, on 30.09.2024 and 04.10.2024 respectively and in respect of the tenders, which are the subject matter of W.P.No.30344 of 2024 and W.P.No.30345 of 2024, the bidder has been identified and it is in the process of awarding the tender. The Writ Petitioner in an earlier occasion has filed a Writ Petition in W.P.No.29873 of 2024 seeking Writ of Mandamus to issue Inspection Certificate. Therefore, it is clear that the petitioner could not enclose the Site Inspection Report, which is one of the necessary ingredients for processing bids and it is a relevant document to be considered by the competent authority at the time of awarding the Tender.



W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024

WEB COPY 10. In view of the above, all the Writ Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

09.10.2024
(1/2)

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Index : Yes

Internet : Yes

Neutral Citation Case: Yes

To:

- 1.The Secretary,
Government of Tamil Nadu,
Highways & Minor Ports Department,
Fort St.George, Secretariat,
Chennai – 600 009.
- 2.The Divisional Engineer (H),
Highways Department,
Construction & Maintenance,
Dharapuram Division, Tiruppur District.
3. The Superintendent Engineer (H),

13/15



W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024

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Highways Department,
Construction & Maintenance,
39, College Road, Tiruppur – 641 602.

4.The Divisional Engineer (H), (QC)
Highways Department,
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Dharapuram Division, Tiruppur District.

N.SENTHILKUMAR, J.,

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WEB COPY



W.P.Nos.30342, 30343, 30344, 30345 & 30347 of 2024

09.10.2024
(1/2)