



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.Nos.36404 of 2023 & 32687 of 2024
and W.M.P.Nos.36410 & 36412 of 2023
and W.M.P.No.35521 of 2024

W.P.No.36404 of 2023

TDR & Co
Representative by its Managing Director,
D.Nanda Kumar
S/o.Damodharan
Having Office at No.14
Wahab Nagar, Tindivanam Taluk,
Villupuram – 604 001.

.. Petitioner

Vs.

- 1.The District Collector,
District Collector Office,
Chengalpattu District.
- 2.The Director of Town Panchayats,
Directorate of Town Panchayats,
Chennai – 600 028.
- 3.The Junior Engineer,
Edaikalinadu Town Panchayat,
Chengalpattu District.



4. The Executive Officer,
Edaikalinadu Town Panchayat,
Chengalpattu District.

5. Deepam Construction,
No.3, Kuravar Street, Kattalai Kooturoad,
Elavalapakkam Village, Perumukkal Post,
Tindivanam Taluk, Villupuram District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records of E-Communication uploaded by respondents 3 and 4 sequel to the rejection made to the petitioner's tender application for technical bids submitted pursuant to the tender notification dated 06.11.2023 vide proceedings Na.Ka.No.172/ 2023 issued by 4th respondent and to quash the same and consequently direct the respondents to follow the Tamil Nadu transparency in Tender Act, 1998 for carrying out any public work under the dormant fund in respect of Othiyur Mayana Road, Othiyur Kannikovil and Vellai Vanji Road in Ward No. 2 and Vilambur Kottankuzhi road, Vilambur Murugan Kovil Street Road, Vilambur Palaiya Anjalaga Aluvalagam Kurukku Street, Vilambur Pallikoodan Kurukku Street, Vilambur Kaasipattai Inaippu Road in Ward No. 7 and Kadapakkam Elapangu Road Irandavathu road, Kadapakkam, ECR Road, Muthul Madha Kovil Road (Part) in WardNo. 11 and Vennangupattu Padagu Thurai Road and Thandiyamman Kovil road in Ward No. 21.



For Petitioner .. Mr.R.Thirumoorthy
For Respondents .. Mr.T.Chandrasekaran
Special Government Pleader
for R1 & R2

Mr.N.Naveen Kumar
Government Advocate for R3

W.P.No.32687 of 2024

Deepam Construction,
No.3, Kuravar Street, Kattalai Kooturoad,
Elavalapakkam Village, Perumukkal Post,
Tindivanam Taluk, Villupuram District.
Petitioner

Vs.

- 1.The District Collector,
Chengalpattu.
 - 2.The Assistant Director of Town Panchayats,
Kancheepuram.
 - 3.The Executive Officer,
Edaikalinadu Panchayat,
Chengalpattu District.
- Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus,, calling for the records relating to the order dated 30.09.2024 in Na.Ka.No.172/2023 of the 3rd respondent herein and quash the



same and consequently direct the 3rd respondent herein to forthwith make payments to the petitioner in respect of the work “Othiyur Mayana Road, Othiyur Kannikovil and vellai vanji Road in Ward No.2 and Vilambur Kottankuzhi Road, Vilambur Murugan Kovil Street Road, Vilambur Palaiya Anjalaga Aluvalagam Kurukku Street, vilambur Pallikoodan Kurukku street, Vilambur Kaasipatai Inaippu Road in Ward No.7 and Kadapakkam Elapangu Road Irandavathu Road, Kadapakkam ECR Road, Madha kovil Road (part) in Ward no.11 and Vennangupattu Padagu Thurai Road and Thandiyamman Kovil Road in Ward No.21.

For Petitioner .. Ms.A.L.Gandhimathi
Senior Counsel for
Mr.L.Palani Muthu

For Respondents .. Mr.T.Chandrasekaran
Special Government Pleader
for R1 & R2

Mr.N.Naveen Kumar
Government Advocate for R3

ORDER

Both these writ petitions relate to the same tender. W.P.No.36404 of 2023 has been filed by the unsuccessful bidder and W.P.No.32687 of 2024 has been filed by the successful bidder.



2. Both the writ petitioners had participated in a tender in the tender Notification No.172 of 2023 issued on 06.11.2023 by the 4th respondent/Executive Officer, Edaikalinadu Town Panchayat, Chengalpattu District. The work was for a total value of Rs.262.00 Lakhs and the period for completion of the work was 180 days according to the notification. The work comprised Othiyur Mayana Road, Othiyur Kannikovil and Vellai Vanji Raod in Ward No.2 and Vilambur Kottankuzhi Road, Vilambur Murugan Kovil Street Road, Vilambur Palaiya Anjalaga Aluvalagam Kurukku Street, Vilambur Pallikoodan Kurukku Street, Vilambur Kaasipattai Inaippu Road in Ward No.7 and Kadapakkam Elapangu Road Irandavathu Road, Kadapakkam ECR Road, Muthul Madha Kovil Road (Part) in Ward No.11 and Vennangupattu Padagu Thurai Road and Thandiyamman Kovil Road in Ward No.21.

3. The petitioner in W.P.No.36404 of 2023 found that his bid was rejected at the technical stage itself. Communication in this regard was issued on 06.12.2023. The writ petitioner in W.P.No.32687 of 2024 was declared a successful bidder. Questioning the rejection of the said bid on the technical ground, W.P.No.36404 of 2023 has been filed. The petitioner has not filed any appeal. No reason has been given as to why an appeal under Section 11 of the Tamil Nadu Transparency in Tenders Act, 1998 has not been filed.



4. At any rate, a learned Single Judge of this Court by an order dated 19.01.2024 had stated that the award of the tender shall be subject to the writ petition. It is contended on behalf of the petitioner in W.P.No.32687 of 2024 that the writ petitioner therein after having been awarded the work had proceeded to execute the work and as on date had completed nearly 80% of the work. It is contended that when the bills were raised for payment, the 4th respondent had not paid the amounts but claimed pendency of the writ petition.

5. The learned counsel for the writ petitioner in W.P.No.36404 of 2023, placed reliance on Section 10(7) of the Tamil Nadu Transparency in Tenders Act, 1998. The said provision stipulates that when a bid is rejected, the ground on which it is rejected should be furnished. According to the learned counsel for the writ petitioner, grounds have not been furnished except a statement that the writ petitioner's bid had not been admitted owing to non-compliance of technical specification. It is contended that this reason would not be in conformity with the provision of law as enunciated under Section 20(7) of the Act.

6. The learned counsel also drew reference to this Court to an order of the learned Single Judge in batch of writ petitions, W.P.No.33809 of 2023 batch,



Overseas Infrastructure Alliance (India) Private Limited vs. The Chairman, TANGEDO, Chennai 600 002 and others. The learned Single Judge by an order dated 07.12.2023 had placed further reliance on the order of an other learned Single Judge in W.P.(MD)No.11721 of 2022, order dated 17.06.2022.

7.In both the orders of the learned Single Judges both in Madurai Bench and in the Principal Seat, in the writ petition referred the above, direction had been given that the respondents must furnish the reasons for rejection on the ground of non-compliance of technical issue by the petitioner and if such information is not given, the petitioner can file an appeal under Section 11 of the Act and thereafter, the respondents should abide by the result of the appeal.

8.Let me pass the same orders. In the result, W.P.No.36404 of 2023 stands disposed of by directing the respondents to furnish the reasons for rejection on the ground of non-compliance of the technical issues by the petitioner, within a period of five working days, from the date of receipt of a copy of this order. On receipt of such information, the writ petitioner, if they are so advised should file an appeal, within a period of five working days. Thereafter, the Government shall dispose of the appeal, within a period of two weeks from the date of filing of the appeal. No further orders are required, the Writ Petition No.36404 of 2023 is disposed of accordingly.



9. In W.P.No.32687 of 2024, it is contended that as successful bidder, the petitioner had completed nearly about 80% of the work. Since the work has been completed to that extent it is only appropriate that the respondents release the payment for the work completed. Since the learned Single Judge had stated that the award of tender will be subject to the writ petition, a bank guarantee may be furnished by the writ petitioner for the amount of the bills and on receipt of such bank guarantee, the amount raised in the bills may be discharged to the writ petitioner in W.P.No.32687 of 2024. The amount should be disbursed, within a period of ten working days from the date of furnishing of bank guarantee.

10. Accordingly, W.P.No.32687 of 2024 is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

26.11.2024

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

ssr



To

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3. The Junior Engineer,
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C.V.KARTHIKEYAN,J.

SSR

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