



W.P.(MD).No.2224 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

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and

W.M.P.(MD).Nos.2231, 2232 and 2234 of 2024

M/s.K.R.N & Company
represented through its Managing Partner,
K.R.N.Ramesh.

... Petitioner

vs.

1.The Superintending Engineer,
National Highways,
No.5, Besant Road,
Chinna Chokkikulam,
Madurai 625 002.

2.The Divisional Engineer,
National Highways,
1st Floor, Panagal Building,
Thanjavur 13.

3.The Divisional Engineer (Quality Control),
National Highways,
Quality Control Campus,
Thiru Nagar, Thanakkankulam,
Madurai.

4.R.K.Ramesh

5.C.Sathyamoorthi



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6.S.S.Construction,
Sivakumar,
Pullampadi,
Lalgudi Taluk,
Trichy District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the first respondent to permit the petitioner to participate in the tender process in Tender Notice No.13/HDO/NH/2023, dated 27.12.2023, without insisting the certificate for working condition of Machinery and equipment.

For Petitioner	: Mr.P.Ganapathi Subramanian
For R1 to R3	: Mr.D.Gandhi Raj Special Government Pleader

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the first respondent to permit the petitioner to participate in the tender process in Tender Notice No.13/HDO/NH/2023, dated 27.12.2023, without insisting the certificate for working condition of machinery and equipment.

2. The case of the petitioner is that he is the Class - I Contractor. On 27.12.2023, the first respondent invited tender for road widening work from 2 lane to 2 lane with paved shoulders and improvement at Km



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27/0-29/2, 33/6-35/2 and 37/8-41/6 at Thirukkattupalli – Sengipatti – Pattukottai Road (SH) and the last date of submission is 30.01.2024 at 15.00 hrs. and it shall be opened on 31.01.2024 at 3.00 p.m. in the first respondent office. Subsequently, the first respondent extended the time for submission of online tender papers up to 31.01.2024, through their corrigendum in Amendment - 2, dated 29.01.2024 and also extended the tender opening as 01.02.2024. One among the condition in the tender schedule relates to possession of required equipment and machineries are in working condition. The petitioner has applied for the work in Sl.No.1 and on 24.12.2024, he requested the third respondent to issue certificate for working condition of machinery and equipment to enable him to participate in the tender process. But the official respondents, in order to do some favoritism to the sixth respondent, failed to issue necessary certificate to the petitioner. Hence, no other option, he had enclosed the machinery and equipment working condition certificate issued by the Divisional Engineer (H) Quality Control, Trichy twenty days before. However, the first respondent is taking hasty steps to proceed with the tender process dated 27.12.2023 and finalised the same in favour of the persons of their choice against law. Hence, the petitioner has filed the present writ petition.



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3. According to the petitioner, he has received a similar certificate from the Divisional Engineer (H), Quality Control, Trichy through online on 30.01.2024 at 7.30 p.m., for participating in the tender.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 would submit that similarly placed persons have approached the authorities earlier and the certificates for working condition of machinery and equipment have been issued, based on the documents being produced by them. But the petitioner has not approached the authorities earlier and he filed an application only on 29.01.2024, seeking for issuance of such certificate. As the processing of the said application will take minimum three days time, at present, the respondents cannot consider the petitioner's representation and then issue a certificate.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3.



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6. On perusal of the documents, it is seen that the petitioner is a Class - I Contractor from the year 2015 and he is well aware about the procedure involved in processing the tender. The petitioner has approached the Divisional Engineer, Trichy for obtaining certificate and there is no material available on record to show that he has approached the respondents at earlier point of time. It is also seen that the petitioner has approached this Court at the last minute that is few hours before the tender is supposed to be opened and this Court is of the view that the petitioner has missed the bus. He has filed the application at the last minute ie., on 29.01.2024 for issuance of such certificate, which could not be processed by the said authorities. Further, the petitioner has not produced any material before this Court to show that he has got so many machineries. Hence, this Court is not inclined to accept the prayer sought for by the petitioner and as such, the petitioner cannot participate in the tender.

7. In the result, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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akv



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