



W.P.(MD).Nos.3196 & 3197 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :14.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)Nos.3196 & 3197 of 2024

and

W.M.P(MD)Nos.3155, 3156, 3165 & 3166 of 2024

P.Jayasingh

... Petitioner
in both writ petitions

VS.

1.The District Collector,
Kanyakumari District,
Nagercoil-01.

2.The Executive Officer,
1st Grade Town Panchayat,
Kadayal,
Kanyakumari District.

... Respondents
in both writ petitions

PRAYER in W.P(MD)No.3196 of 2024: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Tender Notification in Tender Ref.No.Na.Ka.No.134/2023/A1, dated 30.01.2024 issued by the second respondent and quash the same as illegal and consequently direct the second respondent to confirm the said tender titled "NABARD RIDF XXIX 2023-2024, Strengthening of BT road at



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Kilathoor Kanya Nagar road in Kadayal Town Panchayat, Kanyakumari District in favour of the petitioner.

PRAYER in W.P(MD)No.3197 of 2024: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Tender Notification in Tender Ref.No.Na.Ka.No.307/2023/A1, dated 30.01.2024 issued by the second respondent and quash the same as illegal and consequently direct the second respondent to confirm the said tender titled “Dormant Fund 2023-24 Phase III Kadayal Town Panchayat, Kanyakumari District” in favour of the petitioner.

For Petitioner	: Mr.Puhazhgandhi
For R1	: Mrs.K.Christy Theboral Additional Government Pleader
For R-2	: Mr.A.Baskaran Additional Advocate General Assisted by Mrs.S.Jeyapriya Government Advocate

COMMON ORDER

These Writ Petitions have been filed to quash the impugned Tender Notifications in Tender Ref.Na.Ka.No.134/2023/A1 and Na.Ka.No. 307/2023/A1, dated 30.01.2024 issued by the second respondent and consequently, direct the second respondent to confirm the said tender



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titled “NABARD RIDF XXIX 2023-2024, Strengthening of BT road at Kilathoor Kanya Nagar road in Kadayal Town Panchayat, Kanyakumari District” and “Dormant Fund 2023-24 Phase III Kadayal Town Panchayat, Kanyakumari District” in favour of the petitioner.

2.The case of the petitioner is that he is a qualified contractor. The second respondent called for a tender for “NABARD RIDF XXIX 2023-2024, Strengthening of BT road at Kilathoor Kanya Nagar road in Kadayal Town Panchayat, Kanyakumari District vide Tender Ref.No.Ka.No.134/2023/A1, dated 05.12.2023 and “Dormant Fund 2023-24 Phase III Kadayal Town Panchayat, Kanyakumari District” vide Tender Ref.No.Na.Ka.No.307/2023/A1, dated 07.11.2023. The value of tender is Rs.83.50 lakhs and Rs.1,86,00,000/- and the date of tender was fixed at 27.12.2023 and the date of opening the bids were fixed at 3.30 p.m., on the same day. The petitioner came to know that one Thiru.K.Manikandan, Kannamamandu along with his sister concerned MJD Constructions, Kannamamandu also submitted the bids. It is to be noted that MJD constructions is run by the wife of Mr.Manikandan and they operate from the same address. Thus, Mr.Manikandan and MJD



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constructions were involved in bid rigging by breaching the provision of confidentiality. Therefore, the petitioner made representation to the first respondent to de-list them. However, no action has been taken so far. On 22.12.2024 a tender evaluation report was published wherein, the petitioner, Mr.Jayaraj and Mr.K.Manikandan were declared as having submitted eligible bids. After declaring the eligible bidders, a price bid was opened and he was found as Lowest bidder and his bid was accepted and hence, the tender ought to have been confirmed in his favour. While he was eagerly awaiting confirmation, to his utter surprise, the second respondent called for a re-tender on 07.02.2024 by uploading a tender notice, dated 30.01.2024 for the same work and fixed for re-tender on 14.02.2024 in a hurried manner without even giving the statutory time of 15 days from submitting the tender. Next day, on 08.02.2024 he received the re-tender notice by post without even getting any order of cancellation. In spite of, the petitioner being the successful bidder, the second respondent is floating a new tender and trying to confirm the same in his favorite in an illegal manner. Further, in spite of the petitioner being the registered contractor, the second respondent has not sent the re-tender notice to the petitioner as mandated by the Tamil Nadu



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Panchayat Act & Rules. The second respondent being a statutory authority under Tamil Nadu Tender Transparency Act 1998, is mandated to strictly act as per the provisions of the statute. The second respondent's action in calling a fresh tender for the same work is arbitrary and non-est in law. The respondents hurried action to conclude without following 15 days minimum time period is in direct violation of Rule 20 of Tamil Nadu Tender Transparency Act. The second respondent's action is aimed at favouring someone and thus breach of Tender Transparency process. The original impugned Tender Notifications, dated 30.01.2024 issued by the second respondent is not available with the petitioner, since it was published only in the official website of the second respondent. Challenging the impugned Tender Notifications in Tender Ref.No.Na.Ka.No.134/2023/A1 and Na.Ka.No.307/2023/A1-1 dated 30.01.2024 the petitioner has filed these two writ petitions.

3. According to the petitioner, the respondents ought to have given the said tender to the petitioner, but the respondents have not chosen to issue the work order to him. The petitioner has quoted a sum of Rs.1,55,11,816.00/- and the GST and other taxes would come to



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Rs.1,86,00,000/- and for the other work, he quoted a sum of Rs.83,50,000/-. According to the petitioner, the Kadayal Town Panchayat has passed a resolution, dated 31.01.2024 that the following members are eligible ie., K.Manikandan, P.Jeyasingh and Jeyaraj. The Manikandan has quoted a sum of Rs.73,66,126/-, Jeyasingh quoted a sum of Rs.60,10,981.83/- and the Jeyaraj quoted a sum of Rs.62,13,607.36/- and therefore, the Jeyasingh has quoted lessor amount and that was accepted by the Town Panchayat and the work order was not given to the said Jeyasingh.

4. The learned Additional Advocate General appearing for the second respondent would submit that as per the tender conditions, the total amount of Rs.1,86,00,000.00/- and in which, after deducting the tax of Rs.1,55,118/- the amount is valued. The petitioner has quoted much less than the amount. Therefore, the authorities are decided that if the said bid is accepted, the quality of the work is not in proper. According to the respondents, the authorities ought to have given a notice to the petitioner regarding non-acceptance of the technical bid. But the second respondent has chosen to issue the re-tender notice for re-auction without



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giving any notice. He further submitted that appropriate direction may be given to the respondents to call for the fresh tender.

5. In view of the above, if the petitioner has quoted very less than the quoted value, then the authorities competent, who have to get the expert opinion regarding value of the bid, if found the project cannot be completed as per the norms established, they have to give an opportunity to the petitioner as per Rule 15 of the Tender Transparency Act and then, the petitioner can deposit the additional amount. But the respondents have not followed the same and neither cancel the bid nor given the work order and wrongly issued the re-tender notification.

6. Accordingly, this Court directs the respondents to call for fresh tender notification and they should also fix the approximate value which can be accepted as per the standard of conditions issued by the Public Works Department regarding the works done. If there is no clause, then they have to find out what will be appropriate cost which can be quoted for completing the work without any fault.



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7. In view of the above, the impugned tender notifications in Ref.No.Na.Ka.No.134/2023/A1 and Ref.No.Na.Ka.No.307/2023/A1, dated 30.01.2024 are set aside and the respondents are directed to issue fresh notification within 15 days from the date of receipt of a copy of this order as per the Tender Transparency Act.

8. These writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index:Yes/No
NCC:Yes/No
am

14.02.2024

To

- 1.The District Collector,
Kanyakumari District,
Nagercoil-01.
- 2.The Executive Officer,
1st Grade Town Panchayat,
Kadayal,
Kanyakumari District.



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V.BHAVANI SUBBAROYAN,J.

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