



W.P(MD)Nos.4834, 1903 & 2523 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.4834, 1903 & 2523 of 2024

and

W.M.P.(MD)Nos.4646, 4647, 1919, 1920, 2514 & 2515 of 2024

M/s.Premier Garments Processing,
Rep. by its Proprietor,
Old No.4, New No.29,
Govindan Street, T.Nagar,
Chennai-600 017.

... Petitioner in all W.Ps.

Vs.

1.Union of India
Rep. by its Secretary to Government,
Ministry of Railways,
256-A, Raisina Road, Rajpath Area,
Central Secretariat,
New Delhi 110001.

2.The Chief Engineer-Construction,
Divisional Railway Manager,
Southern Railway, Chennai.

3.The Divisional Mechanical Engineer,
Southern Railway,
Madurai Division,
Madurai-625 016.

... Respondents in all W.Ps.



W.P.(MD)Nos.4834, 1903 & 2523 of 2024

Prayer in W.P.(MD)No.4834 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the order dated 12.02.2024 in ref.U/M. 35/BOOT/MDU of the 3rd respondent herein and quash the same.

Prayer in W.P.(MD)No.2523 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records No.U/M.271/BOOT/MDU dated 03.02.2024 of the 3rd respondent herein and quash the same.

Prayer in W.P.(MD)No.1903 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records in respect of bid No. GEM/2023/B/4297935 dated 07.12.2023 in respect of the work of Non Comprehensive Linen Management in AC Coaches of 13 Pairs Trains Collection machine washing, ironing, loading, unloading transportation and distribution of bed rolls kits in bio degradable cover in MDU Division for a period of 2 years of the Respondent Railways and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai
for Mr.C.Mahadevan

For Respondents : Mr.K.Govindarajan
DSGI

(in all W.Ps.)



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COMMON ORDER

Heard the learned counsel for the petitioner and the learned DSGI for the southern railway.

2. The petitioner is a registered contractor. The petitioner was awarded the work of Comprehensive Linen Management for nominated trains of Madurai and Trichirappalli Divisions. The contract commenced in the year 2020. As per the terms of the contract, the petitioner had set up mechanized laundry of 5 ton per shift capacity on BOOT (Build-Own-Operate-Transfer) Model. On account of the impugned communications, the number of nominated trains has been drastically reduced. The case of the petitioner is that action of the respondents suffers from the vice of arbitrariness. The petitioner would contend that on the strength of the assurances given by the officials of southern railway, he had set up an unit by investing substantial sum. The petitioner points out that soon after, the contract was awarded, Covid pandemic struck the nation and for several months, the petitioner could not generate any income at all. Yet the petitioner in order to comply with the statutory requirements had to expend substantial sums of money. The petitioner would point out that if the impugned communications are implemented, his business will become unviable. Challenging the impugned communications issued by the respondents, these three writ petitions have been filed.



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3. The learned counsel appearing for the petitioner took me through all the averments set out in the affidavit filed in support of the writ petitions and also the materials enclosed in the typed set of papers. He was at pains to point out that the allegations levelled by the southern railway against the petitioner are unfounded and this Court ought to reject the same. He also would point out that invocation of the particular provision mentioned in the impugned communications is also misplaced. He called upon this Court to set aside the impugned communications and allow the writ petitions as prayed for.

4. The respondents 2 & 3 have filed common counter affidavit and the learned DSGI took me through its contents. In response to the counter affidavit, the petitioner has also filed the rejoinder affidavit.

5. I carefully considered the rival contentions and went through the materials on record.

6. I must remind myself that I am exercising writ jurisdiction under Article 226 of the Constitution of India. It may not be open to me to delve deep into the disputed facts even if I wish to. The respondents claim that contrary to the



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agreement, the petitioner has not installed the boilers with the requisite capacity. They contend that at present, only one boiler having 1 ½ ton capacity is functional and that the other boiler is not running. The petitioner's counsel would of-course point out that in response to the show cause notices issued in this regard by the railways, the petitioner had given a convincing response. The petitioner's contentions might as well be true. But it is not open to the writ court to give any definite finding. It is for this reason alone I am not in a position to grant relief to the petitioner. More than anything else, the contract between the parties does contain an arbitral clause. The Arbitration and Conciliation Act, 1996 enables the party to approach the jurisdictional Court for interim relief also. I place on record the stand of the respondents that they would definitely give an assured supply of 5 tons per day to the petitioner. They also would state that this is not a rigid stand. If the petitioner measures up to the standards set out in the contract, they would definitely revise their stand. The learned DSGI points out that after the impugned communications were issued, they had added one more nominated train in favour of the petitioner. I therefore relegate the petitioner to invoke the arbitral remedy. If the petitioner files any application for interim relief, the same shall be numbered immediately by the jurisdictional Court and decision on merits shall be taken as expeditiously as possible in accordance with law.



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7. With this liberty to the petitioner to invoke arbitral remedy and direction to the jurisdictional Court to number the interim application and also give a disposal as expeditiously as possible, the Writ Petitions are disposed of. I make it clear that I have not gone into the merits of the matter. No costs. Consequently, connected miscellaneous petitions are closed.

19.03.2024

Index : Yes / No
Internet : Yes/ No
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NOTE:Issue Order Copy on 20.03.2024



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G.R.SWAMINATHAN, J.

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