



W.P(MD)No.5744 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5744 of 2024
and
W.M.P(MD)Nos.5422 to 5424 of 2024

A.Senthil Kumar

... Petitioner

Vs.

1.The District Collector,
O/o.The District Collector,
Trichy District.

2.The General Manager,
Aavin,
Trichirapalli District Co-operative Society
Milk Producers' Union Limited,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the tender notification issued by the second respondent vide Se.Ma.Tho.E/6651/Oppanthapulli/2023 dated Nil and



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consequently directing the respondents to reconsider the petitioner's bid number 2023-TCMPF-399585-1 dated 12.01.2024.

For Petitioner : Ms.K.Pandipriya

For Respondents : Mr.S.Kameshwaran
Government Advocate for R.1

Mr.J.Devasenar
Standing Counsel for R.2

ORDER

Heard both sides.

2.Aavin / second respondent issued tender notification on 14.12.2023 inviting applications from eligible tenderers for transportation of milk cans on certain specified routes. The petitioner was one of the applicants. The petitioner's tender was rejected at the technical scrutiny stage itself. Challenging the same, the present writ petition came to be filed.



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3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and direct the second respondent to consider the petitioner as an eligible tenderer.

4.The learned Standing Counsel appearing for the second respondent submitted that interference is not warranted in this case. He pointed out that fitness certificate is one of the essential documents. The document uploaded by the petitioner was unreadable. In fact, the concerned official opened the Laptop and demonstrated that the document uploaded by the petitioner was totally illegible. The learned Standing Counsel also points out that the petitioner's fitness certificate would even if assumed to be genuine, expire in two days. The petitioner has not been able to produce the original certificate before this Court. He therefore called upon this Court to dismiss the writ petition.

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



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6. Copy of the technical scrutiny report has been made available. It is seen therefrom that the petitioner was the tenderer for Vanthalai route. The reason for rejecting the petitioner's tender was that FC uploaded by him was not visible. The second respondent means that the document is illegible.

7. There is no requirement in the tender notification that the original document must be kept ready and only the original document must be uploaded. It appears that the petitioner had purchased a pre-owned vehicle; he claims that only a photo copy was given to him. The petitioner however asserts that it is a genuine document and not a fabricated one. If the petitioner has only photo copy of the document and the same is uploaded, obviously impression of the uploaded document will not be good. The petitioner ought not to suffer as a result.

8. The second respondent would do well to incorporate a condition in the future tender notification that the applicants must have the original document with them and that alone should be uploaded. They also may consider incorporating a condition that if the uploaded



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document is not legible or properly visible, that would again entail rejection. In the case on hand such restrictive conditions have not been stipulated. Therefore, I hold that rejection of the petitioner's tender at the technical scrutiny stage is not justified or fair. I take note of the contention of the learned Standing Counsel that FC is to expire shortly. If the petitioner turns out to be successful and work order is also issued, on that date the petitioner should produce the original FC. If the petitioner fails to produce the original FC, even if the petitioner is successful in the financial bid, he may still not be able to reap the fruits of the same.

9. In this view of the matter, the impugned technical bid report as far as the petitioner is concerned is set aside. The petitioner will be considered as an eligible tenderer. The financial bid shall also be opened. If the petitioner is successful in the financial bid and work order issued, he should be able to produce the renewed FC. If the petitioner fails to produce, the benefit of this order will stand vacated automatically.



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10.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

- 1.The District Collector,
O/o.The District Collector,
Trichy District.
- 2.The General Manager,
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Trichirapalli District Co-operative Society
Milk Producers' Union Limited,
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G.R.SWAMINATHAN, J.

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