



W.P(MD)No.7310 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7310 of 2024
and
W.M.P(MD)Nos.6725 to 6727 of 2024

SMT Transport,
Handling and Transport Contractors,
Represented by its Managing Partner,
D.Gowsalya,
No.91, Porkudam Nagar,
Paravai Extension,
Madurai – 625 402.

... Petitioner

Vs.

1. Central Warehousing Corporation,
Represented by
The Regional Manager,
Central Warehousing Corporation,
No.4, North Avenue,
Saidapet,
Chennai – 600 015.

2. The Warehouse Manager,
Central Warehouse Madurai,
Bypass Road,
Ellis Nagar,
Madurai – 625 010.



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3.The Chief Goods Supervisor,
Kudal Nagar Goods Shed,
Southern Railway,
Koodalnagar,
Madurai.

4.Sundara Moorthi

5.Dyna Raji

... 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 entire records connected with the Impugned Letter in No.CWC/RO-CNI/BUSS/H and T/2023-24 dated 14.03.2024 issued by the first respondent and subsequent Bid Notification issued by the first respondent in Bid Number/GEM/2024/B/4767248 dated 15.03.2024 and quash the same as illegal and consequently direct the first respondent to permit the petitioner to proceed the handling and transportation Contract at Central Warehouse Madurai issued to the petitioner in No.CWC/RO-CNI/Busi/Hand T-MDU/2022-23 / dated 21.10.2022 on the file of the first respondent in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.G.Prabhu Rajadurai
for R.Alagumani

For Respondents : Mr.M.S.Seshadri for R.1



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ORDER

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Heard both sides.

2.The petitioner was appointed as handling and transport contractor by Central Warehousing Corporation. The contract is for a period of two years i.e., from December 2022 to December 2024. The case of the petitioner is that without terminating her contract, the Corporation has now issued tender notification for appointing an additional contractor for the period from 01.04.2024 to December 2024.

3.The learned counsel appearing for the petitioner after initially arguing for a while submitted that the petitioner may be permitted to invoke the arbitration clause. Clause XIX(B) reads as follows:

“XIX (B) Arbitration:

*All disputes and differences **which are not resolved by Amicable Resolution, as mentioned above**, arising out of or in any way touching or concerning this agreement whatsoever shall be referred to the sole arbitration of any person appointed by the Managing Director, Central Warehousing Corporation, New Delhi. The award of such*



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arbitrator shall be final and binding on the parties to this contract. It is a term of this contract that in the event of such Arbitrator to whom the matter is originally referred transfer is unable to act for any reason, the Central Warehousing Corporation at the time of such inability to act, shall appoint another person to act as Arbitrator in accordance with the terms of this contract. Such person shall be entitled to proceed with the reference from the stage at which was left by his predecessor. It is also a term of this contract that no person other than a person appointed by the Managing Director, Central Warehousing Corporation, New Delhi as aforesaid should act as Arbitrator and if for any reason that is not possible, the matter is not to be referred to arbitration at all. The Arbitrator shall give reasons for his award.

*Provided further that any demand for arbitration in respect of any claim [s] of the **parties**, under the contract shall be in writing and made within one year of the date of termination or completion [expiry of the period] of the contract and where this provision is not complied with the claim [s] of the contractors shall be deemed to have been waived and absolutely barred and the Corporation shall be discharged and released of liabilities under the contract.*



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The venue of arbitration shall be such place as may be fixed by the Arbitrator in his sole discretion.

The arbitral proceedings in respect of dispute shall commence on the date on which the Arbitrator call upon the parties to file their claim and defence statement, counterclaim if any.

The work under the contract shall, if reasonable possible continue during the arbitration proceedings and no payment due or payable to the contractors shall be withheld on account of such proceedings.

The cost of arbitration shall be borne by parties as per the decision of the arbitrator.

The arbitrator shall give separate award in respect of each dispute of difference referred to him.

Subject as aforesaid the Arbitration & Conciliation Act 1996 as amended from time to time shall apply to the Arbitration proceedings under this clause.”

Even though the learned Panel counsel appearing for the Corporation filed typed set of papers to rebut the allegations made by the petitioner, I am of the view that the parties can be allowed to work out their rights before the civil Court in any arbitration proceedings that may be initiated



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by the petitioner. 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.

4. 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, this Writ Petition is disposed of. I make it clear that I have not gone into the merits of the matter. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

25.03.2024

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

Note: Issue order copy on 26.03.2024.



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G.R.SWAMINATHAN, J.

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