



W.P(MD).No.21674 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD).No.21674 of 2024

and

W.M.P.(MD)Nos.18307, 18308, 18310, 18313 and 18315 of 2024

TMC Raja & Company,
Represented by R. Muthukrishnan.

... Petitioner

Vs.

- 1.The District Collector,
Office of the Collectorate,
Madurai.
- 2.The Assistant Director of Panchayat,
Office of the Assistant Director of Panchayat,
Collectorate Complex, Madurai District.
- 3.The Block Development Officer,
Office of the Block Development Officer,
Thirupuramkundram, Madurai District.
- 4.The Commissioner,
Thirupuramkundram Panchayat Union,
Madurai District.
- 5.The Cashier,
Thirupuramkundram Panchayat Union,
Madurai District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Tender Notification issued by the 3rd respondent vide his proceedings in Na.Ka.No.1610/2024/A2 dated 03.09.2024 and quash the same as illegal and to direct the 3rd respondent to conduct E-Tender as per Tamil Nadu Transparency in Tenders Act.

For Petitioner : Mr.D.Senthil

For Respondents : Mr.A.Kannan,
Addl. Government Pleader for R1 & R2.
Mr.K.S.Selva Ganesh,
Addl. Government Pleader for R3 & R4.

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus to quash impugned tender notification issued by the third respondent vide proceedings in Na.Ka.No.1610/2024/A2 dated 03.09.2024 and to direct the third respondent to conduct E-Tender as per Tamil Nadu Transparency in Tenders Act.

2.The petitioner is a registered contractor with the third respondent. The third respondent called for tender notification in Na.Ka.No.1610/2024/A2 dated



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03.09.2024 under common finance fund for the period 2024 – 2025. The last date for submission of the tender is 12.09.2024 at 04.00 PM. The tender schedule will be issued after remittance of tender fee to the fifth respondent. The petitioner approached the fifth respondent to obtain the tender schedule by remitting the tender fee on 06.09.2024 and the fifth respondent orally informed the petitioner that there is a direction from the higher authority not to issue tender schedule to all the registered contractors and for the above works, contracts have been issued. The petitioner immediately approached the third respondent and he has also not considered the petitioner's request. Hence, the petitioner filed the present writ petition.

3.The main grievance of the writ petitioner is that only in order to support a few of the contractors, the petitioner is not being issued with the tender schedule to submit the tender within the time by the third respondent. It is further submitted that as per Rule 4(A) of the Tamil Nadu Transparency in Tenders Rules, 2000 all tenders should be on the e-portal, which has not been followed in this case. Hence, he prayed this Court to allow the writ petition.



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4.The learned Additional Government Pleader appearing for the respondents on instructions submitted that the petitioner can participate in the tender process after submitting the tender fee to the fifth respondent by today itself ie., 10.09.2024 and the fifth respondent will issue the tender schedule after receipt of payment from the petitioner. He further submitted that issuance of e-tender will arise only if the value of the work is more than Rs.10 Lakhs and for the works below to Rs.10 Laksh, only offline tenders are conducted at present. He further submitted that absolute transparency will be maintained while conducting the tender process.

5.Heard both sides and perused the materials available on record. Rule 4(A) of the Tamil Nadu Transparency in Tenders Rules, 2000 introduced by way of amendment reads that the Government may mandate procuring entities to do procurement through electronic mode through web portals as may be specified by order. However, no specific order has been passed by the Government in this regard. In the letter dated 22.11.2023 issued by the Director of Rural Development and Panchayat Raj Department to the District Collectors also indicates that as on the date of the letter, for the work more than Rs.10 Laksh, e-tender has to be conducted. However, it is directed to ensure 100% online EMD submission for all



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e-tenders. There is no specific order to conduct e-tender with regard to the work below to Rs.10 Lakhs.

6.As rightly pointed out by the learned Additional Government Pleader, the petitioner can participate in the tender process on paying the tender fee on or before 11.09.2024 at 04.00 PM. Upon the petitioner paying the tender fee, the tender schedule shall be issued to the petitioner by the fifth respondent. It is also made it clear that while opening the tender documents absolute transparency shall be maintained and all the tender documents should be opened and the same has to be videographed. The entire proceedings will be duly videographed by the authorities. The video footage shall be submitted before the Registry.

7.With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

10.09.2024

NCC : Yes/No

Index : Yes/No

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Issue order copy on 10.09.2024.



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WEB COPY

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N.SATHISH KUMAR, J.

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