



W.P.(MD)No.23883 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **04.12.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.23883 of 2024

and

W.M.P.(MD)No.20229, 20230 & 24512 of 2024

M/s.VK & Co.,
Rep. By its Managing Director,
V.Kathiresan.

... Petitioner

Vs.

1. The Superintending Engineer (Highways),
Construction and Maintenance Circle,
Madurai.

2. The Divisional Engineer (H),
Construction and Maintenance,
Ramanathapuram.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the record relating to the impugned order passed by the 1st respondent dated 30.09.2024 in MDU.No. 075.TN.No. 19.2024-25.HDO dated 02.09.2024 insofar declaring that the bid of the petitioner as “Not Admitted” and quash the same as illegal and consequently direct the 1st respondent to accept the available documents submitted by the petitioner for technical evaluation and thereafter evaluate the financial bid of the petitioner also.



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For Petitioner : MrA.Mohan
For Respondents : Mr.Veerakathiravan
Additional Advocate General
assisted by
Mr.T.Amjad Khan
Government Advocate

ORDER

On rejection of the technical bid by the impugned order dated 30.09.2024, this writ petition is filed.

2. Heard the learned counsel on either side and carefully perused the entire materials available on record.

3. The learned counsel appearing for the petitioner submitted that despite the petitioner's application on 18.09.2024 seeking work site inspection certificate, the respondents wantonly made him to wait and did not provide him with work site inspection certificate facilitating him to upload the same for the purpose of participating in the tender. Waiting till the last minute, without such certificate, the petitioner had uploaded other necessary documents as required, resulting in the impugned order passed by the first respondent and pressed for allowing this writ petition.



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4. Per contra, the learned Additional Advocate General appearing for the respondents drew my attention to the original tender notification, which was issued as early as on 02.09.2024 and the first corrigendum dated 12.09.2024 and the second corrigendum dated 13.09.2024. He further pointed out that bid opening date mentioned in the first corrigendum as 18.09.2024. Despite availability of nearly more than a week, the petitioner had chosen to make an application only on 18.09.2024. However, it can be precisely understood from the perusal of the document that the same has not been sent to the respondents. The respondents have not received any of such requisition so far. Now having failed to get qualified for the technical bid, the petitioner has filed this writ petition and the same is not permissible. The learned Additional Advocate General appearing for the respondents also submitted that there is an appeal remedy available under Section 11 of the Tamil Nadu Transparency in Tenders Act, 1998, which the petitioner can very well avail. Hence he prayed for dismissal of this writ petition.

5. This Court is of the considered view that the petitioner should have applied for work site inspection certificate in time to facilitate the respondents to issue the same. Having not done so, and after having been rejected in the



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technical bid, the petitioner has no local standi to file this writ petition challenging the impugned order. This writ petition is dismissed accordingly.

However, the petitioner is at liberty to avail appeal remedy under Section 11 of the Tamil Nadu Transparency in Tenders Act, 1998.

6. Considering the floodgate of the writ petitions filed before this Court in the matter of issuance of Work Site Inspection Certificate, this Court is of the considered view that the first respondent shall issue directives immediately, across the State requiring the various Departments to notify tenders, more particularly, mentioning the last date for submitting applications for issuance of Work Site Inspection Certificate and the last date for receipt of the said certificate from the department concerned in the tender notification itself, thereby facilitating the tenderers to easily obtain the same before the tender date and prevent any such future litigation. No costs. Consequently, connected miscellaneous petitions are dismissed.

04.12.2024

(2/3)

NCC : Yes / No
Index : Yes / No
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TO:-

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L.VICTORIA GOWRI, J.

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Order made in
W.P.(MD)No.23883 of 2024
(2/3)

Dated
04.12.2024