



W.P.(MD)No.25925 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.25925 of 2024

K.M.A.Nizam Muhaideen

... Petitioner

Vs.

1.State of Tamil Nadu,
Highways Department,
Rep. By its Superintending Engineer (Highways),
Construction and Management Circle,
Tirunelveli.

2.The Divisional Engineer (Highways),
Construction and Management Circle,
Quality Control Division,
Tirunelveli.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to take necessary steps and to issue worksite Inspection Certificate so as to enable the petitioner to participate in the tender would be held on 29.10.2024 conducted by the 1st respondent and consider the petitioner's representation dated 16.10.2024 which is still pending before the 2nd respondent.



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For Petitioner : Mr.P.Venkatesan
For Respondents : Mr.D.Sadiq Raja,
Addl. Govt. Pleader

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the 2nd respondent to take necessary steps and to issue work Site Inspection Certificate so as to enable the petitioner to participate in the tender would be held on 29.10.2024 conducted by the 1st respondent and consider the petitioner's representation dated 16.10.2024 which is still pending before the 2nd respondent.

2. It is the case of the writ petitioner that he is a Class I Civil Contractor, registered with the 1st respondent and issued certificate by the 1st respondent in his proceedings No.CR (IvaRu) 2125/2021-22/Val, dated 09.06.2021 for the works above the value of Rs.75,00,000/-. Further, he has in possession of more than 20 years of experience in the field of civil construction, including the Government contracts. It is the further case of the petitioner that the 1st respondent floated tender through notification vide No.30/2024-25/HDO, dated 20.09.2024, vide No. 38/2024-25/HDO, dated 30.09.2024 and vide No.40/2024-25/HDO, dated



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05.10.2024 for urban improvements – widening from Two lane to Two lane with paved shoulders strengthening and improvements to riding quality including CD works in Government Road at Palayamkottai. One of the terms and conditions of the said tender notice is that the contractor should produce the document for possession of sufficient plants and machineries on his own and also obtain Work Site inspection certificate from the competent authorities. Hence, the petitioner approached the 2nd respondent and filed an application on 16.10.2024 through RPAD seeking for work site inspection certificate, but till now, the 2nd respondent has not issued the work site inspection certificate. According to the petitioner, the petitioner is having experience in this field more than 20 years and he has invested huge money for purchase of mixer plants and machineries worth about more than crore, if non furnishing the certificate of work site inspection, then he lose to participate in the tender. Hence, the petitioner has filed this Writ Petition.

3. The learned Additional Government Pleader appearing for the respondents, on instructions, would submit that the petitioner has not furnished the relevant documents, despite a communication sent by the authorities in this regard. According to the respondents, on 21.10.2024, vide proceedings in கு.எண். 1510/2024/இவ.அ1/நாள் 21.10.2024, the authorities requested the petitioner to



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produce necessary documents. Despite said notification, the petitioner has not produced any documents.

4. Whereas, the learned counsel appearing for the petitioner would submit that he has given a reply to the said communication. However, despite such reply, the work site inspection certificate has not been issued. The learned counsel appearing for the petitioner relied upon the postal receipt to buttress his submissions.

5. On a perusal of the same, this Court is of the view that it is a disputed fact that whether all the documents have been earlier submitted by the petitioner or not. The tender condition itself clearly stipulates that all the documents should be furnished at the time of uploading the tender application, otherwise, the tender application will be rejected. Now the tender is also opened today. At this stage, this Court cannot go into the disputed fact as to whether the petitioner has sent all the documents by post or not. In respect of other work, the petitioner has granted similar certificate. If the respondents have any motive to delay the certificate, they would not have issued. Therefore, at this stage, the contention of the petitioner cannot be decided in this Writ Petition, as the tender has already been opened



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today. Hence, there is no merit in this Writ Petition and the Writ Petition is liable to be dismissed.

6. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

29.10.2024

NCC : Yes/No
Index : Yes/No

vsm

To

- 1.The Superintending Engineer (Highways),
State of Tamil Nadu,
Highways Department,
Construction and Management Circle,
Tirunelveli.
- 2.The Divisional Engineer (Highways),
Construction and Management Circle,
Quality Control Division,
Tirunelveli.



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N.SATHISH KUMAR, J.

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