



W.P.(MD).No.26901 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.26901 of 2024
and WMP(MD) Nos.22812 & 22814 of 2024

S.Aruna

... Petitioner

Vs

1. The Secretary to the Government,
Highways and Minor Ports (HN1) Department,
Secretariat, Chennai.

2. The Chief Engineer,
Construction and Maintenance,
Highways Department,
Chennai.

3. The Superintendent Engineer (Highways),
Construction and Maintenance,
Highways Department,
Tirunelveli Circle.

4. The Divisional Engineer,
Highways C and M,
Tirunelveli.

5. N.Mariappan

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus by calling for the entire records pertaining to the impugned order, dated 30.10.2024 rejecting the petitioners bid and accepting the bid of 5th respondent in connection with the Tender Notice No. 37/2024-25/HDO, dated 28.09.2024 issued by the 3rd respondent and quash the same and consequently direct the 3rd respondent to accept the petitioner's bid and do the opening of bids afresh and to proceed with the remaining tender process pursuant to the said tender notice.

For Petitioner : Mr. R.Anand

For Respondents : Mr.Veera Kathiravan (R1-R4)
Additional Advocate General
Assisted by Mr.S.Kameswaran
Government Advocate

Mr.G.Mohankumar (R5)

ORDER

The present writ petition has been filed challenging the impugned order, dated 30.10.2024 and consequently direct the 3rd respondent to accept the petitioner's bid and do the opening of bids afresh and to proceed with the remaining tender process pursuant to the said tender notice.

2.Heard, the learned counsel appearing for the petitioner, the learned Additional Advocate General appearing for the respondents 1 to 4 and



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the learned counsel appearing for the 5th respondent. Perused the materials on record.

3.The plight of the petitioner is that she approached the respondent Authorities, more particularly, 4th respondent for issuance of Work Site Inspection Certificate several times and despite the same, the 4th respondent evaded from issuing the said Certificate. Hence, left with no other option, the petitioner has submitted an application in writing on 29.10.2024 seeking issuance of the Work Site Inspection Certificate to the 4th respondent for the purpose of facilitating her to participate in the tender, which was notified vide tender notice No. 37/2024-25/HDO, dated 28.09.2024. However, without considering her requisition and without issuance of the Work Site Inspection Certificate, the respondents proceeded to conclude the tender. Hence, challenging the same, this writ petition has been filed.

4.The learned counsel for the petitioner, Mr.R.Anand, submitted that a total number of 5 tenderers participated in the said tender process and the impugned tender summary report itself reveals that all the tenderers have submitted the tender application on 28.10.2024 and that would make it clear



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that the 4th respondent had issued Work Site Inspection Certificate to the other participants on the same day negating the petitioner's claim and that itself would show the mala fide on the part of respondents Authorities and he went to the extent of levelling charges against the respondents that a Syndicate has been formed against them for the purpose of exclusively defeating the petitioner in the tender in the technical bid itself.

5.Mr.Veera Kathiravan, learned Additional Advocate General, relying upon Clause III of the notes column of the tender notice submitted that the bids could be submitted through online till 14.00 hrs on 28.10.2024 as per the server system clock. However, the petitioner had made an application on 29.10.2024 through registered post and posted the same at 13.48 hours, i.e., precisely 12 minutes before the closing time and they had received the said written requisition only a day after ie., on 29.10.2024. The allegation made by the petitioner that the petitioner had made several requests in person for issuance of Work Site Inspection Certificate is exclusively for the purpose of camouflaging the entire process and an application has been given in writing, that too, by registered post only on 28.10.2024 and the same had been received by the 4th respondent only on 29.10.2024. In view of the same, there is no mala

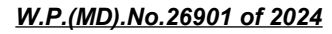


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vide on the part of the 4th respondent and pressed for dismissing the writ petition.

6.Mr.Mohankumar, learned counsel for the 5th respondent vehemently contended that the petitioner had umpteen opportunities to have submitted the aforesaid application on time atleast one week before the last week ie., from 28.10.2024. That apart, he further submitted that the petitioner is actually a proxy Class I Contractor and the actual work is being carried out by her husband, who is a Politician and had indulged in arm-twisting with the 5th respondent during another tender process and the 5th respondent has already lodged a complaint against the petitioner's husband for his act. That apart, he further submitted that the power of this Court for judicial review in matter relating to tender is limited and pressed for dismissal of the writ petition.

7.Per contra, the learned counsel for the petitioner vehemently condemned the attitude of the 5th respondent for commenting on her husband without any proper records.



9. Considering the floodgate of the writ petitions filed before this Court in the matter of issuance of Work Site Inspection Certificate, this Court is inclined to take the considered view that the first respondent shall issue directives to all the Districts, across the State requiring the various Departments to notify the tenderers, particularly, mentioning the last date for submitting applications for issuance of Work Site Inspection Certificate and the last date for receipt of the same. The Certificate from the department concerned in the tender notification shall be issued by facilitating the tenderers to easily obtain the same before the expiry of the last date and prevent any such future litigation.



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10. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM

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L.VICTORIA GOWRI, J.

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