



W.P(MD)No.26853 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD)No.26853 of 2023

Rajadurai

... Petitioner

-Vs-

1.The District Collector,
Pudukkottai,
Pudukkottai District.

2.The Assistant Director of Panchayat,
Pudukkottai,
Pudukkottai District.

3.The Block Development Officer (Village Panchayat),
Block Development Office, Karambakudi,
Karambakudi,
Pudukkottai District.

... 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 respondents Nos.1 to 3 to award the Tender and issue work order to the Petitioner for the two works, namely, Package Work 30 AGAMT 11 23-24 THIRUMANCHERI PT OORANI and Package Work 34 AGAMT II 23-24 THIRUMANCHERI PT T FLOOR I within a stipulated time that may be



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fixed by this Court by considering the fact that the Petitioner is the lowest bidder.

For Petitioner : Mr.R.Karunanidhi
For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by
Mr.D.Gandhi Raj
Spl. Govt. Pleader (for R1 and R2) and
Mr.Jeyapriya
Govt. Advocate (for R3)

ORDER

This writ petition is filed seeking for issuance of a Writ of Mandamus to direct the respondents Nos.1 to 3 to award the Tender and issue work order to the Petitioner for the two works, namely, Package Work 30 AGAMT 11 23-24 THIRUMANCHERI PT OORANI and Package Work 34 AGAMT II 23-24 THIRUMANCHERI PT T FLOOR I within a stipulated time by considering the fact that the Petitioner is the lowest bidder.

2. Heard the learned counsel for the petitioner and the learned Additional Advocate General appearing for the respondents.



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3. According to the petitioner, he is engaged in Tender contractual work at Karampakudi Union Block Development Office and he is having registered proprietorship firm. The third respondent office has awarded work order on 18.08.2023 and the petitioner has completed the pipe line work. The petitioner is taking up tenders in public work in his locality and successfully completed the same. for the past so many years. While so, on 16.08.2023, he came to know that a tender for about 43 works have been opened under the Ananithu Grama Anna Marumalarchi Thittam (AGAMT) works in about 8 Village Panchayats in Pudukkottai District. The deadline for receiving online bid was 29.08.2023. The petitioner has participated in the online tender which was held on 29.08.2023 for the above mentioned two works. Later on 04.09.2023, through online portal, he came to know that he has quoted the lowest bid of amount of Rs.12,50,028/- and Rs. 7,75,107/- respectively for two works. He came to know that he has emerged as the successful bidder in the two tenders. However, he has not received any work order for the same from the third respondent office. This creates suspicion in the minds of the Petitioner that some influential persons are trying to obtain the work order, by unfair means. Hence, he filed the present writ petition seeking the above stated relief.



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4. According to the third respondent, the price quoted by the petitioner is the lowest price. The amount quoted for package 30 is 14% lower than the estimated amount and with regard to package 34, it is 13.9% lower than the estimated amount. Hence, the work cannot be completed with quality as per the expected standards in the tender conditions. Further, the amount quoted by the petitioner is released to the petitioner after making the deductions viz., 5% deposit, 1% income tax, 18% GST Tax, 1% worker's welfare fund and 2% additional security deposit. It could be seen that the above said deductions comes to a total of 27% and the quoted amount is released to the petitioner after making the above said 27% deductions. Further, the petitioner's quote is 14% (package 30) and 13.9% (package 34) lower than the estimated amount. Thus, the petitioner would be in a position to complete the work less than 60% of the estimated amount, which is impossible. Therefore, the remaining 10 tender works cannot be completed with the quality, as per the tender conditions.

5. According to the third respondent, as per the circular, dated 02.12.1999, the following conditions shall be incorporated in all the tender documents:-



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“On evaluation of tender if it is found that if the overall quoted amount of the Tender is less than 5 to 15% of the value put to Tender, the Contractor shall pay an additional security at 2% of the estimated value. If the tender discount exceeds 15% to 20%, the contractor shall pay an additional security deposit of 50% of the difference between the quoted amount and estimate amount. Failure to furnish the Additional Security Deposit within 15 days from the date of receipt of Acceptance order and execute the Agreement shall entail cancellation of award of contract and forfeiture of E.M.D furnished.”

6. According to the petitioner, he has paid 2% of the estimated value as additional security as per the said circular, dated 02.12.1999.

7. It is seen that the petitioner has approached this Court stating that he was not awarded with the work order. The petitioner feels that due to some third party's intervention, the respondents have not issued work order. This Court is of the view that the work has to be done with quality. As per the norms stated in the work order, there cannot be any shortage of quality. Further, the petitioner has paid 2% of the estimated value as additional security as per the said circular, dated 02.12.1999.



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8. In view of the above, the third respondent is directed to issue work order to the petitioner in the subject matter work. It is made clear that the petitioner has to maintain the standard of construction work which has been prescribed by the Government. A Junior Engineer has to to be deputed as person to visit the site where the work has been carried out on daily basis. Every day morning he has to visit and in the evening, he has to measure what are the work that has been completed and to maintain the standard and he should be there to guide them regarding the amount of materials to be used and machineries. It is made clear that if the authorities find that the said work is being not upto the satisfaction, at any point of time, the contract awarded to the Petitioner may be cancelled. It is also made clear that the Petitioner has to complete the contract work on or before 25.03.2024. This order will not be taken as a precedent in any other case.

9. With the above directions, this writ petition stands disposed of. No costs.

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NCC : Yes/No

Index : Yes/No

Internet : Yes

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Note : Issue order copy on 19.02.2024.



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V.BHAVANI SUBBAROYAN, J.

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