



WP(MD)No.28523 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on :28.03.2024
Pronounced on :11.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

WP (MD) No.28523 of 2023
and
WMP (MD) Nos.24587, 24588 and 24590 of 2023

M/s.Bhavadharani Builders
represented by its Managing Partner,
Palani Kumar,
No.64, Ground Floor,
Pasupathi Street,
Jeeva Main Road,
Sellur, Madurai.

... Petitioners

Vs

- 1.The Joint Commissioner,
06H/5B, 3, Millerpuram Main Road,
Sinnamani Nagar,
Thoothukudi - 628 008.
- 2.The Executive Officer /
Tender Inviting Authority,
Arulmigu Mutharamman Kovil,
Kulasekarapattinam,
Thoothukudi District.
- 3.The Executive Engineer,
Arulmigu Mutharamman Kovil,
Kulasekarapattinam,
Thoothukudi District.
- 4.ALU Structure,
No.14, Banadurai,
Thirumanjanai Street,
Kumbakonam, Thanjavur District.



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... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the entire records relating to the impugned tender rejection order passed by the 2nd respondent in ID. 2023_HRCE_391014_1 dated 29.11.2023 and quash the same and further directing the 2nd respondent to declare the petitioner as successful bidder in respect of the tender work pursuance to the tender notice in No.1/2023/24, dated 08.11.2023.

For Petitioners : Mr.R.Maheswaran

For Respondent : Mr.P.Subbaraj

Nos.1 to 3 Special Government Pleader

For Respondent : Mr.R.Paranjothi

No.4

ORDER

The petitioner has approached this Court challenging the rejection of his tender by the respondent for non-production of site visit certificate.

2.The learned Counsel for the petitioner submits that the 2nd respondent Executive Officer has invited



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tender for the work of improvement of basic necessity and additional amenities in Arulmigu Mutharamman Thirukovil, Kulasekarapattinam, Thiruchendur Taluk, Thoothukudi district by notice dated 08.11.2023. The tender amount is Rs.338 Lakh. The last date for submission of bid was 28.11.2023 and the date of opening the tender was 29.11.2023. Along with the tender, site visit certificate should also be enclosed. Therefore, the petitioner visited the site on 24.11.2023 and requested the 2nd respondent to issue site visit certificate, however he did not get any such certificate. Therefore, he submitted the bid on 28.11.2023 quoting the bid amount as Rs.2,78,71,641/-. However his bid was rejected that site visit certificate was not uploaded. Despite his request the petitioner was not provided with the site visit certificate. Therefore there is no fault on the petitioner, it is the failure on the part of the respondents. Therefore the impugned rejection order is liable to be set aside.



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3.The learned Special Government Pleader appearing for HR and CE Department submits that that the 2nd respondent invited tender for the works of improvement of basic facilities and additional amenities in the respondent temple. There is a specific condition that the tenderer should personally visit the work site and submit a site visit certificate issued by the concerned Executive Engineer, HR and CE Department and if the site visit certificate is not uploaded, the tender will be summarily rejected by the tender inviting authority. Though the petitioner claims to have visited the place on 24.11.2023, he requested the 2nd respondent Executive Officer to issue site visit certificate. The petitioner knowing well that the site visit certificate should be obtained from the Executive Engineer, HR and CE Department, Madurai Region, has requested the Executive Officer, who is not competent to give such a certificate. Moreover the letter of the petitioner was received in the 2nd respondent office only on 30.11.2023, after opening the tender on 29.11.2023. There is no fault on the respondents



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at any point of time. Since the petitioner submitted the bid without enclosing necessary certificate his bid was rejected. The learned Special Government Pleader has also relied on the consignment tracking of the postal department.

4.This Court considered the rival submissions and perused the materials placed on record.

5.The 2nd respondent Executive Officer of Arulmigu Mutharamman Temple has invited tender for the work of improvement of basic facilities and additional amenities in Arulmigu Mutharamman Thirukovil, Kulasekarapattinam, Thoothukudi district on 08.11.2023. The last date for submission of bid was 28.11.2023 and the date of opening the tender was 29.11.2023. Along with the tender, site visit certificate should be enclosed. The petitioner visited the site on 24.11.2023 and requested the 2nd respondent to issue site visit certificate, but he did not get the certificate. Therefore he submitted the bid on 28.11.2023. However his bid was rejected



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stating that the site visit certificate was not enclosed. The petitioner claims that he has sent a letter on 23.11.2023 to the Executive Officer requesting him to provide the details of the Executive Engineer concerned from whom the site visit certificate to be obtained. It is seen from the consignment tracking that the letter of the petitioner was delivered to the Executive Officer only on 30.11.2023, which is after the expiry of the last date for submitting the tender and also after opening of the tender. The petitioner alleges that despite his request, the he was not provided with the site visit certificate. This Court does not find any reason to interfere with the impugned order, since the request of the petitioner was received by the 2nd respondent only after the last date of submission and the petitioner should have followed it up with the 2nd respondent. Therefore this writ petition is dismissed. At the same time, when the authorities are inviting tenders and mandates such certificate, the details of the said certificate issuing authority should also find place in the tender itself, which



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will avoid such issues and litigations and the authorities should ensure that all the details are provided in the notice without making the tenderer to seek for details from them. No costs. Consequently connected miscellaneous petitions are also dismissed.

11.06.2024

Internet : Yes / No

To

- 1.The Joint Commissioner,
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Sinnamani Nagar,
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- 2.The Executive Officer /
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B. PUGALENDHI , J .

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