



WA(MD)No.2660 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.12.2024

CORAM :

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**WA(MD)No.2660 of 2024
and
CMP(MD)Nos.18484 and 18485 of 2024**

1. The Superintending Engineer,
National Highways, No.5, Besant Road,
Chinna Chokkikulam,
Madurai – 625 002.

2. The Divisional Engineer,
National Highways,
First Floor, Panagal Building,
Thanjavur – 613 001.

... Appellants

vs.

1. SAI HRIDHAM INFRAA PVT LTD
No 208/6, Muthudaiyanpatti,
Kulathur Taluk,
Pudukkottai 622 501.
Represented by its Managing Director
V.Palanisamy.

... Respondent

Prayer : Appeal filed under Clause XV of the Letters Patent,
against the order passed in W.P(MD)No.29668 of 2024 and
WMP(MD)No.25041 of 2024, dated 06-12-2024.



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For Appellants : Mr.Veera Kathiravan
Additional Advocate General, assisted by
Mr.S.Shaji Bino, Special Government Pleader

For Respondent : Mr.G.Prabhu Rajadurai
for Mr.M.Rajarajan

JUDGMENT

(Judgment of the Court was made by **M.S.RAMESH, J.**)

By consent of both sides, the writ appeal itself is taken up for final disposal at the admission stage.

2. This writ appeal is directed against the interim order passed in W.P(MD)No.29668 of 2024 and WMP(MD)No.25041 of 2024, dated 06-12-2024.

3. By way of amendment dated 29.11.2024, to the original tender notice dated 04.11.2024, issued by the first appellant, the bidders were required to inspect the site of the proposed work, for which, the work site inspection certificate should be obtained from the Divisional Engineer(NH), Thanjavur, and uploaded along with all the required



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technical documents in the portal, failing which, the bid would be summarily rejected. The last date for submission of the bid was on 06.12.2024.

4. Admittedly, the respondent / writ petitioner had made an application on 04.12.2024, seeking for issuance of the work site inspection certificate, claiming that they had already visited the site and inspection was also completed. However, as per the tender conditions, both the tenderer, as well as the officials from the department, are jointly required to conduct such inspection, based on which, the required certificate will be issued.

5. In this background, the second appellant herein had given a reply on 05.12.2024, to the respondent, calling upon them to give the details regarding registration of the firm and the authorised person for inspection. In the meantime, the respondent had filed the writ petition. Through the interim order dated 06.12.2024, the Writ Court had observed that the production of the work site inspection certificate was unwarranted and thereby directed the appellants to accept the



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respondent's tender, without insisting for the work site inspection certificate.

6. We are not in agreement with such an observation made. When one of the tender conditions mandates for joint inspection and uploading of work site inspection certificate, the Writ Court, in exercise of its powers under Article 226 of the Constitution of India, will not usually venture into to whittle down any of the conditions. On the other hand, it has been repeatedly held that the department would be well within its powers, to impose any reasonable conditions and the High Court, in exercise of its power under Article 226 of the Constitution of India, will not normally interfere with such conditions. On this limited finding, the observations made in the interim order shall stand set aside. However, we have also taken note of the fact that even before the last date for submission of the bid, that is, 06.12.2024, the respondent had made an application, seeking for the required work site inspection certificate and the same was not rejected till the writ petition was filed.



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7. The learned Additional Advocate General appearing for the appellants, on instructions, submitted that the appellants are always willing to conduct the joint inspection and if satisfied, they would also issue the necessary work site inspection certificate. It is his further submission that the tenders have not been opened till date and that if any direction is issued by this Court, for conducting a joint inspection and for issuance of consequential work site inspection certificate, the bids would be opened on 23.12.2024.

8. In the light of such submission made, the respondent herein is called upon to report before the appellants on 23.12.2024 at 10.00 a.m., along with the certificate of incorporation of their company and shall also co-operate during the joint inspection, to be conducted on the same day. After satisfactory inspection, the work site inspection certificate shall be issued to the respondent, who in turn, shall hand over the same to the appellants herein, on the same day. Thereafter, the appellants are at liberty to open the bids of the tender notice dated 04.11.2024.



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WEB COPY 9. Accordingly, the Writ Appeal stands partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(M.S.R, J.) (A.D.M.C, J.)

20.12.2024

Index : Yes / No

Neutral Citation : Yes / No

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Note : Issue order copy today(20.12.2024) itself.

To

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JUDGMENT MADE IN
WA(MD)No.2660 of 2024
DATED : 20.12.2024