



W.P.No.6525 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 05.03.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.6525 of 2025
and W.M.P.Nos.7189, 7191 and 7194 of 2025

SKS foundation India Pvt. Ltd.

Represented by its authorized signatory,

Ashley Victor

.. Petitioner

Versus

The Managing Director,

Tamil Nadu Textbook & Educational Services

Corporation,

EVK Sampath Maaligai,

DPI Campus, College Road, Chennai - 600 006. .. Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned tender process vide Tender Ref.RC.No.440/Pur-II/2023, dated 12.01.2024 and quash the same and consequently, direct the respondent to float a fresh tender in accordance with law without insisting on clause 4.9 of the tender.



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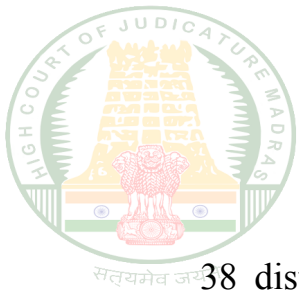
For Petitioner : Mr.S.Karthikei Balan

For Respondents : Mr.J.Ravindran,
Additional Advocate General,
Asstd. by Ms.S.Varsha

ORDER

This Writ Petition is filed to call for the records relating to the impugned tender process bearing Ref.RC.No.440/Pur-II/2023, dated 12.01.2024 and to quash the same and consequently, direct the respondent to float a fresh tender in accordance with law without insisting on Clause - 4.9 of the tender.

2. The brief factual matrix from which this Writ Petition arises is that on 12.01.2024, a tender was floated under the Samagra Shiksha Project by the School Education Department, intending to provide sports and physical education equipment sets to 24,266 primary schools, 6,948 middle schools, 6,177 high and higher secondary schools, and district-level equipment sets to



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38 districts for the year 2024-2025. This initiative aims to improve the physical fitness and mental health of students and all concerned. The total value of the tender was Rs. 74,00,00,000/-. The last date for bid submission was 22.02.2024, with technical bids scheduled to be opened on 22.03.2024 and price bids set to be opened on 31.05.2024.

3. Responding to the tender, nine persons, including the petitioner, submitted bids. Clause - 4.9 of the tender conditions mandates that the tenderer or the consortium member must not have been blacklisted by the Corporation or any Central or State Government departments, Quasi-Government Organizations, local Government bodies, or N.S.U.s during the last five years as of the date of the tender opening. It is stated that even if the blacklisting has been revoked, the tenderer is still not eligible to participate in the tender. When the technical bid was evaluated, it was found that the petitioner had suppressed a material fact relating to the blacklisting of its consortium partner by the Jharkhand Government, and therefore, the



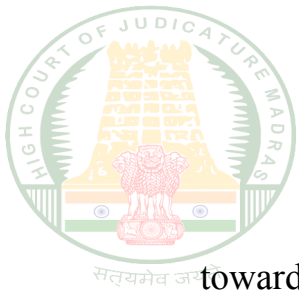
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petitioner was disqualified.

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4. Thereafter, the price bid was opened, and the tenders were evaluated. One Shakti Model Works was identified as L1. It is further stated that the rate quoted by the supplier was less than 50% of the estimated tender value; therefore, as an additional measure of caution, the bidder was directed to make a security deposit of 10% as per the letter dated 06.08.2024. Subsequently, by a communication dated 12.08.2024, the supplier requested leniency and sought to have the additional security deposit fixed at 5%. He also assured the quality of the goods and offered to supply samples in advance for the Corporation's satisfaction. Again, on 28.10.2024, the tenderer submitted a letter expressing concern about submitting the 10% additional security deposit.

5. The matter was placed before the Board, and on 12.12.2024, a decision was taken to direct the supplier to remit 10% of the tendered value



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towards the additional security deposit. It was also resolved to issue a letter of acceptance on a pilot basis for the supply of goods in two districts. Accordingly, the supplier also provided the additional security deposit on 15.01.2025, and the letter of acceptance was issued on 07.02.2025. Under these circumstances, the present Writ Petition is filed.

6. Heard *Mr.S.Karthikei Balan*, learned Counsel for the petitioner and *Mr.J.Ravindran*, learned Additional Advocate General for the respondent.

7. The learned Counsel for the petitioner submits that Clause - 4.9 of the tender conditions is entirely unjustified, arbitrary, and perverse, as it seeks to debar an individual even after the revocation of their blacklisting. The learned Counsel further contends that the evaluation process and the awarding of the contract should have been finalised within the tender's validity period. According to the tender documents, the validity period is 120 days. Extensions may be granted beyond this period, but only for a



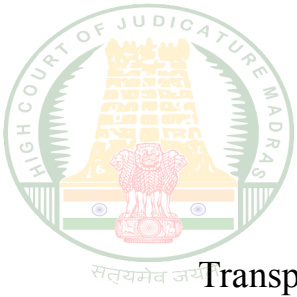
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maximum of 180 days. In this instance, the 180-day period has lapsed, rendering the tender automatically invalid, and the authority has no option but to issue a new tender in accordance with Rule 26 of the Tamil Nadu Transparency in Tenders Rules, 2000. Thus, the authorities cannot proceed further with this tender. The learned Counsel relies upon the judgment of the Karnataka High Court in ***Sambhav Constructions Vs. State of Karnataka and Ors.***¹. He argues that the Court considered a similar rule applicable to Karnataka and determined that the prescribed time line is mandatory, consequently validating the petitioner's claim.

8. Per *contra*, the learned Additional Advocate General for the respondent submits that, firstly, since the petitioner has suppressed information about the blacklisting and has been disqualified from the tender, he lacks *locus standi* to raise questions about it further. After accepting Clause - 4.9 and submitting the tender, the petitioner cannot subsequently challenge it. Regarding the challenge related to Rule 26 of the Tamil Nadu

¹ AIR 2004 KARNATAKA 326



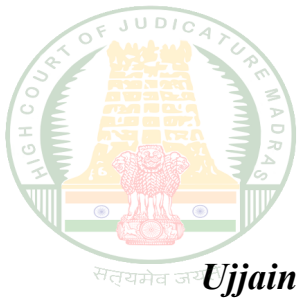
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Transparency in Tenders Rules, 2000, the petitioner also lacks *locus standi*.

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Moreover, upon reading the rule, once the tender evaluation is completed on time, it is unnecessary to seek an extension to award the contract alone. In this case, the evaluation of the tender was done by the opening of the price bids and the consideration of fixing the L1 rate as of 31.05.2024, which falls within the 120-day validity period of the tender. Subsequently, considering the bid made by the L1, which was 50% lower than the estimated amount, the respondent organization took some time to verify the feasibility. After assuring itself, an additional security deposit was required, and the matter was then presented before the Board, leading to the delay. There is no arbitrariness or favoritism in this process. Everything was conducted fairly and transparently. Therefore, there is no basis for this Court to interfere in this case.

9. The learned Additional Advocate General would rely on the judgment of the Hon'ble Supreme Court of India in ***Municipal Corporation,***



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Ujjain and Anr. Vs. BVG India Limited and Ors.², specifically referring to
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paragraph No.44 of that judgment. The learned Additional Advocate General would also rely on the judgment of the Hon'ble Supreme Court of India in *Tata Motors Limited Vs. The Brihan Mumbai Electric Supply Transport Undertaking (Best) and Ors.*³, specifically referring to paragraph No.52 of that judgment. The advanced proposition is that the Writ Court will be very hesitant to interfere in the tendering process.

10. I have considered the rival submissions from both sides and examined the case records.

11. Firstly, regarding the validity of Clause - 4.9 of the tender conditions, it is evident that when the tender was issued, the petitioner participated by accepting the said condition. The petitioner suppressed a material fact related to the blacklisting of the consortium partner. Therefore,

² (2018) 5 SCC 462

³ AIR 2023 SC 2717



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after accepting the tender conditions and suppressing this vital information, the petitioner cannot later challenge the condition simply because the respondent uncovered the truth and disqualified them. Additionally, the challenge pertains to the revocation being considered a disqualification. However, the petitioner does not assert that its partner's blacklisting was revoked. No such claim is made in the affidavit supporting the petition, nor is any argument presented. Consequently, the contention cannot be raised purely on an academic basis when the petitioner's consortium partner is blacklisted by the Jharkhand Government, especially, since this was concealed by the petitioner in their bid document.

12. Rule 26 of the Tamil Nadu Transparency in Tenders Rules, 2000, is extracted hereunder:-

"26. Time taken for evaluation and extension of tender validity.-

(1) The evaluation of tenders and award of contract shall be completed, as far as may be practicable, within the period for which the tenders are held valid.

(2) The Tender Accepting Authority may seek



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extension of the validity of tenders for the completion of evaluation:

Provided that sum total of all extensions shall ordinarily not exceed 180 (one hundred and eighty) days.

(3) In case the evaluation of tenders and award of contract is not completed within extended validity period, all the tenders shall be deemed to have become invalid and fresh tenders may be called for."

13. The evaluation of tenders and the awarding of contracts shall be completed, as far as practicable, within the period for which the tenders are valid.

14. In this case, clause 13 of the tender document reads as follows:-

"13.VALIDITY

13.1 The rate quoted in the Tender shall be valid for the acceptance by the Corporation for a minimum period of 120 days from the date of opening of the Tender. Escalation in the rates (within the validity period) will not be entertained under any circumstances."

Therefore, a proper reading of the above clause shows that the validity period is 120 days from the date the tender was opened.

15. In this regard, it is evident that the validity period of the tender



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relates to the rates quoted. Therefore, the opening of the tender, as outlined in the above clause, shall relate to the date of the price bids opening. The price bids were opened on 31.05.2024. On the same day, the L1 was finalised. Subsequently, on 06.08.2024, the bidder was instructed to make a security deposit. Therefore, the evaluation of the tender was completed by 06.08.2024, within the validity period. Although the tender evaluation was complete, the contract could not be finalised and awarded because the L1 initially negotiated regarding the newly introduced additional security deposit. They finally agreed to the extra 10% security deposit. The matter was then presented to the Board, and the letter of acceptance for two districts alone was issued. Thus, it can be seen that the tender evaluation process occurred well within the stipulated validity period, as outlined under Section 26(1).

16. Section 26(2) mandates that the authority shall seek extension of time if the evaluation is not complete within the validity period, but not with



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respect to award of contract. Section 26(3) states that in cases where the evaluation of tenders and the award of a contract are not completed within the extended validity period, all tenders shall be deemed invalid, and fresh tenders may be called for. But Rule 26(1) itself uses the phrase 'as far as may be practicable' and in this case, the reasons stated above with reference to price verification and additional security deposit, can be considered as appropriate for not completing even the process of award of contract in time.

17. It is true that the Karnataka High Court, considering Rule 22 of the Karnataka Tender Transparency Rules, held that this is mandatory. However, this rule is not similar to that of the State of Tamil Nadu. However, in view of the above factual findings, the same cannot be applied to the instant case. The award of the contract is not delayed with any ulterior motive or by adopting any unfair procedure. Only due to the factors related to the request for an additional security deposit, there was a delay. It cannot be said that the authorities acted in any unfair manner. There is no



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violation of Rule 26 in this case.

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18. Since concerns are raised in the counter-affidavit regarding the quality of goods to be supplied by the tenderer, the respondent Corporation is directed to ensure the quality of the sports equipment and goods provided to the students by the successful bidder. The officials shall check the quality of the entire goods supplied and not sample alone. A Committee consisting of the concerned official along with another competent official from the Sports Development Authority of Tamil Nadu and an independent Sports Person/Coach with sufficient knowledge of sports goods shall be formed, which shall ensure the quality of the goods supplied. The other authorities, including the Chief/District Educational Officer or the Assistant Educational Officer concerned, can also conduct checks. The report on quality checks shall be uploaded to the website of the respondent organisation.

19. With the above directions, the writ petition stands disposed of. No



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Costs. Consequently, connected miscellaneous petitions are closed.

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Neutral Citation : yes
grs

To

The Managing Director,
Tamil Nadu Textbook & Educational Services
Corporation,
EVK Sampath Maaligai,
DPI Campus, College Road, Chennai - 600 006.



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D.BHARATHA CHAKRAVARTHY, J.

grs

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