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W.P.Nos.11693, 11890 & 12481 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.04.2025

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.11693, 11890 & 12481 of 2025

W.M.P.Nos.13235, 13236, 13461, 13462, 14084 & 14085 of 2025

M/s.Sri Balaji Constructions
Registered Partnership Firm,
Represented by its Managing Partner,
Mr.K.Sankar Ganesh,
Having its registered office at
No.9A, Pongali Valasu, Kodumudi Post,
Erode District - 638 151.

...Petitioner in

W.P.No.11693 of 2025

M/s.CMK Projects Pvt Ltd,
R.S.F.No.C23/52, VCTV Road,
Erode - 638 003
Represented by its Chief Executive Officer
R.Jagadeesan

...Petitioner in

W.P.No.11890 of 2025

M/s.P.S.T.Engineering Construction
Rep.by its Managing Partnership
V.S.Thennarasu
2/352, Vavipalayam,
Kolaram Post, Paramathi Velur Taluk,
Namakkal - 637 201.

...Petitioner in

W.P.No.12481 of 2025

Vs.



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- 1.The State of Tamil Nadu
Represented by its Secretary
Housing and Urban Development Department,
Fort St George,
Chennai - 600 009.
- 2.The Managing Director,
Tamil Nadu Police Housing Corporation Ltd.,
(Government of Tamil Nadu Undertaking)
No.132, E.V.R.Salai, Kilpauk,
Chennai - 600 010.
- 3.The Chief Engineer,
Tamil Nadu Police Housing Corporation Ltd.,
(Government of Tamil Nadu Undertaking)
No.132, E.V.R.Salai, Kilpauk,
Chennai - 600 010.
- 4.The Executive Engineer, Coimbatore Division
Tamil Nadu Police Housing Corporation Ltd.,
Commissioner of Police Office Campus,
Hosur Road,
Coimbatore - 641 018.
- 5.The Superintending Engineer,
North Circle,
Tamil Nadu Police Housing Corporation Limited,
No.1 & 7, Inspector's quarters,
PGR Line, Behind CPO Building,
Annadhanapatty, Linemedu,
Salem - 636 006.

...Respondents in

all W.P.'s

PRAYER in W.P.No.11693 of 2025: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling



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for the records of the 5th respondent herein in letter dated 27.03.2025 and quash the same and consequently direct the respondents 3 to 5 to consider the price bid of the petitioner along with other qualified bidders for E-Tender Notice in SE-NC No.16/2024-2025 dated 02.12.2024 invited by the 2nd respondent for the construction of Men Prison, Common areas for Men Prison, 111 Nos. of Prison Staff Quarters, Cement Concrete Road and Security Perimeter Wall (for Men Prison) for Coimbatore Central Prison at Bilichi village, Coimbatore North Taluk in Coimbatore district (Phase I)

PRAYER in W.P.No.11890 of 2025: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 5th respondent dated 28.03.2025 based on 3rd respondent / Chief Engineer's Memo No.CE/ DB/ 2034/ 2023 dated 27.03.2025 and quash the same and consequentially direct the respondents to consider the petitioner for the financial (price) bid evaluation with other bidders for e-Tender Invitation for Bids No.16/2024-2025 dated 02.12.2024 invited by the Tamil Nadu Police Housing Corporation Limited for the construction of Men Prison, Common areas for Men Prison, 111 Nos. of Prison Staff Quarters, Cement concrete road and Security Perimeter Wall (for Men Prison) for Coimbatore Central Prison at Bilichi Village, Coimbatore North Taluk in Coimbatore.

PRAYER in W.P.No.12481 of 2025: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned email communication dated



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27.3.2025 sent by the 5th respondent and the impugned order of the 5th respondent dated 27.3.2025 rejecting the petitioner's bid in technical evaluation and quash the same and consequentially direct the respondents to consider the petitioner's price bid in Bid ID.1238628 along with other bidders for E-Tender Notice in SE-NC No.16/2024- 2025 dated 2.12.2024 invited by the 5th respondent.

For Petitioner : Mr.Sri Ram (Senior Counsel) for
Mr.S.Ananth
For R1 : Mr.S.Senthil Murugan
Special Government Pleader
For R2 to R5 : Mr.M.Suresh Kumar
Additional Advocate General assisted
by Mr.S.Santhosh

COMMON ORDER

All these Writ Petitions are connected to each other and as such are taken up and disposed of by this common order.

2.The case of the Writ Petitioners are that the respondent quoted a tender notice on 02.12.2024 inviting bids for the construction of Men's Prison, Common areas for Men Prison, 111 Nos. of Prison Staff Quarters, Cement Concrete Road and Security Perimeter Wall (for Men Prison) for Coimbatore Central Prison at Bilichi Village, Coimbatore North Taluk (Phase - 1), Coimbatore District.



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3. The case of the petitioners is that originally they received e-mail as if the technical bid is accepted and within a very short time again it showed that the petitioners were not qualified. Therefore, when the petitioners approached this Court, this Court also passed an interim order enabling the respondents to go ahead with opening of the tender but in case the petitioners are found to be the L1, this Court restrained the respondents from announcing any results further and posted the matter for filing counter by the respondents. The respondents have filed counter affidavit. As per the same, with reference to the different information that are given via e-mail where they have explained about the different results that are shown in paragraphs Nos.22 to 24 which is extracted hereunder for ready reference:-

22. I humbly submit that, it is E-tender the entire logistics is handled by the NIC (National Informatic Centre) Process of tender has the following stages:

Once the tenderers applied for the tender; who have paid the EMD and Uploaded the necessary documents;

*1) **Process 1 Stage 1:** Technical Bid will scrutinized by the Tender Scrutiny Committee consisting of 1). The Superintending Engineer / North Circle, TNPHC Ltd, Salem 2) The Senior Draughting Officer, North Circle, TNPHC Ltd, Salem and 3). The Assistant Engineer, North Circle, Salem, if they satisfy the scrutiny they will be **sent** for*



WEB COPY the next process (i.e. then).

2) **Process 1 Stage 2:** The bids will be submitted to the Chief Engineer/Drawing Branch for scrutiny. After the scrutiny in the Drawing Branch, bids will be sent to the Manager Finance and the General Manager for further scrutiny. Then, the bids evaluation report will be send to the Chief Engineer and the Chairman and Managing Director / TNPHC. Then, the scrutiny report will placed for technical Evaluation to the **TAC (Tender Award Committee) consisting of Six Members**

- a) The Chairman and Managing Director, TNPHC Ltd.,
- b) The Director Representing Finance Department
- c) The Inspector General of Police, Head Quarters, Mylapore,
- d) The Director Representing Home Department
- e) The Chief Engineer, TNPHC Ltd, and
- f) The General Manager (Finance and Administration)

3) After completion of TAC meeting, the minutes about the qualified and disqualified tenderers during evaluation will be communicated by the CE/TNPHC Ltd. To the Tender Inviting Authority, The 5th respondent herein, This Respondent after the receipt of the result from the TAC, prepared technical bid opening summary will be uploaded and then technical bid evaluation summary has been prepared and it will be uploaded in NIC as mentioned below;

- 1) The bids that were admitted and considered for technical



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WEB COPY *evaluation by the Tender Scrutiny committee, (The Emails would be sent to all the tenderers whose bid was admitted for Technical Evaluation)*

2) In a sequent chain of NIC, the next process is the updation of results of the tenderers who had been qualified (accepted) or disqualified (Rejected) during Technical Evaluation by the TAC, (The Emails would be sent to all the tenderers; whether they are qualified or disqualified for the financial bid opening).

3) After which the next process is the opening of the financial bid of the qualified tenderers which also has a process set forth by NIC followed acceptance of the Financial Bid of the successful bidder by the TENDER ADMITTING AUTHORITY in accordance with the tender rules. Only then the tender attains finality.

23.The Respondent humbly submits that the “Summary of E-Tender price bid opening summary dated 27.03.2025” was duly prepared and uploaded in the NIC website in the above mentioned process and emails are sent only by NIC; It is a process followed to ensure transparency that it has to be uploaded as required by NIC; the petitioner knowing fully well about this procedure, has presented the case with malafide intention to stall the tender for his ulterior motive.

24.I humbly submit that the petitioner has raised plea during arguments that the Email Admitting him was sent on 27/03/2025 at 5.47 P.M and Email rejecting his Bid was sent on 27/03/2025 at 5.53 P.M as claiming that this email was specifically sent to him;



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WEB COPY *The petitioner claiming to be a reputed tenderer has misguided the court, The email is sent by NIC to all the tenderers to ensure transparency, as explained above it is a comprehensive process; After receiving the report from the TAC evaluation committee; The tenderers whose bids were placed before TAC will be uploaded and that is the email which mentions that the tender has been admitted for evaluation TAC and it will be followed by the uploading of the result of Evaluation by TAC. The petitioner knowing fully well about the process and procedure is trying to stall the tender with ulterior motive.*

4. Therefore, firstly it can be seen that it was only an error and it is not a fact that any decision has been changed. To buttress the said contention this Court already directed them to produce the minutes of the Tender Award Committee. The minutes of the Tender Award Committee meeting dated 27.03.2025 at 3.00 p.m is also produced before this Court. Upon considering the same, it can be seen that the Committee had resolved to open the price bid of three tenderers who were found to be eligible as per the pre-qualification evaluation. In respect of the one tenderer who was blacklisted his bid is rejected. In respect of other six tenderers which included three Writ Petitioners before this Court, from paragraph No.2 onwards the reasons are mentioned in respect of the each of the tenderer as to why



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their pre-qualification bid is not accepted.

5.At this stage, the learned Additional Advocate General would submit that the reasons are disclosed to this Court in a sealed cover only because of the necessity and it can be communicated to the Writ Petitioners only on evaluation of the tender/price bid opening. Each and every stage the petitioners cannot ask for reasons.

6.In this case, the Court found *prima facie* case for the petitioners when the documents were produced, where the results by way of different e-mails were shown differently and therefore it necessitated for the respondents to produce the Committee meetings to support their case that there was no contradictory decision that was taken and it was only a mistake on account of the automated portal. For that purpose the minutes are placed before this Court. Once, the reasons are placed before this Court without disclosing the same to the Writ Petitioners it is not possible for this Court to rely upon the same. Therefore, this Court thought it fit to disclose the reasons in the open Court itself and the decision is taken to incorporate the reasons in the order itself. For the Writ Petitioner in W.P.No.11890 of 2025, the reasons are mentioned in paragraph No.2.1. In respect of the Writ



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Petitioner W.P.No.11693 of 2025, the reasons are mentioned in paragraph No.2.4.

In respect of the Writ Petitioner in W.P.No.12481 of 2025, the reasons are mentioned in paragraph No.2.6. The reasons are as follows:-

2.1.In regard to the tenderer M/s.CMK Projects (P) Ltd., Chennai.

Proof for balance works on hand not tallied for one work.

Due to poor performance of previous work (i.e) Construction of New Integrated Command and Control Centre Building (ICCC) (Green building) at office of the Commissioner of Police, Vepery, Chennai.

2.4.In regard to the tenderer M/s.Sri Balaji Constructions, Erode.

Due to poor performance of previous works (i.e) Construction of 12 SI and 138 PC/HC quarters at AR Campus Erode under Phase-XXI (Work Completed during 2019)

Ongoing work of construction of 400 nos of PC/HC at Perumbakkam (Gr-I to IV)

2.6.They have not uploaded the Pre-qualification booklet (cover A, Containing 35 pages). It is against our departmental condition note-2 Page no.-5 of PQ e-tender documents.

They have uploaded the Balance sheet as on 31.03.2024. While considering their Balance sheet, their working capital available is (+) 0.83%, which is less than the minimum



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requirement of 5% fixed for PQ eligibility criteria. It is against our departmental condition No.4 in Page-7 and PQ Additional tender condition No.8 of Page-19 of PQ e-tender documents. Also, second eligibility criteria in PQ evaluation statement is unsatisfied.

7. Therefore, when the committee had considered the above reasons and thought it fit to disqualify them at the pre-qualification level the respondents can proceed further to open the price bids and process the tender in the manner known to law. Since the reasons are also quoted above, the respondents will also be free to communicate the reasons to the individual tenderers. They also entitled to take recourse as against the rejection of the pre-qualification bid in the manner known to law.

8. Leaving open the liberty of the petitioners to take recourse in the manner known to law, the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

08.04.2025

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Neutral citation : Yes/No



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To

- 1.The State of Tamil Nadu
Represented by its Secretary
Housing and Urban Development Department,
Fort St George,
Chennai - 600 009.
- 2.The Managing Director,
Tamil Nadu Police Housing Corporation Ltd.,
(Government of Tamil Nadu Undertaking)
No.132, E.V.R.Salai, Kilpauk,
Chennai - 600 010.
- 3.The Chief Engineer,
Tamil Nadu Police Housing Corporation Ltd.,
(Government of Tamil Nadu Undertaking)
No.132, E.V.R.Salai, Kilpauk,
Chennai - 600 010.
- 4.The Executive Engineer, Coimbatore Division
Tamil Nadu Police Housing Corporation Ltd.,
Commissioner of Police Office Campus,
Hosur Road,
Coimbatore - 641 018.

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5. The Superintending Engineer,
North Circle,
Tamil Nadu Police Housing Corporation Limited,
No.1 & 7, Inspector's quarters,
PGR Line, Behind CPO Building,
Annadhanapatty, Linemedu,
Salem - 636 006.

D.BHARATHA CHAKRAVARTHY, J.,

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