



W.A Nos. 1555 and 1557 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22-09-2025

DELIVERED ON : 08.10.2025

CORAM

THE HON'BLE MR JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

W.A Nos. 1555 and 1557 of 2024

And

CMP.Nos. 10873, 10880 and 10881 of 2023

Salem City Municipal Corporation,
Represented by its Superintending Engineer,
Fort Main Road, Shevapet,
Salem-636001.

..Appellant in both appeals

Vs

1. Subaya Construction Co.Ltd.,
Rep by its Director Mrs. Meenakshi,
No.21, Soundarapandian Salai,
Ashok Nagar, Chennai-600083.



W.A Nos. 1555 and 1557 of 2024

2.M/s. Kevadiya Construction Pvt. Ltd.,
in JV with N.P. Patel and Co (KCPL-NPP-JV), 5th Floor,
Sanscruti Building, Opp. Satyam Square,
Rajpath Club Road,
Bodakdev, Ahamedabad -380054.
Rep by thier Power of Attorney, Balamurugan Pillai,
e-301, Samsara Luxury Apartment, Behind Keya Motors,
tp-13, Chhani Jakatnaka,
Vadodara, Gujarat -390024.
(R2 is impleaded vide order of this
Court dated 01.04.2025)

...Respondents in both
Appeals

Writ Appeal is filed under Clause 15 of Letter Patent to set aside the
order dated 18.03.2024 passed in W.P.No. 46 of 2024 and 49 of 2024
respectively.

For Appellant: Mr.R.Baskaran, AAG
(in both WAs) Asst. By R.B. Law Associates
B.E Ashwin Balasomeswerar

For Respondents : Mr. P.J. Rishikesh – R1
(in both WAs) Mr.K.R. Samratt - R2



W.A Nos. 1555 and 1557 of 2024

WEB COPY

COMMON JUDGMENT

(Made by ***HEMANT CHANDANGOUDAR, J.***)

These intra-court appeals are directed against the common order dated 18.03.2024 passed by the learned Single Judge in W.P. Nos. 46 and 49 of 2024. Since the issues involved in both the writ petitions are similar, they are taken up together, heard, and disposed of by this common order.

2. The appellant–Salem City Municipal Corporation issued two tender documents inviting bids for the construction, operation, and maintenance (for a period of five years) of underground sewerage systems in uncovered areas of Zone I, Ward No. 1; Zone II, Wards 6, 7, 8, and 12; Zone III, Wards 9, 36, 37, and 38; and Zone IV, Wards 58, 59, and 60 of Salem City (Packages 3 and 4). The notification was published on 22.07.2023, and an addendum was issued on 27.10.2023. The tender documents contained terms and conditions governing the eligibility criteria for qualifying in the technical bid as well as the financial bid.



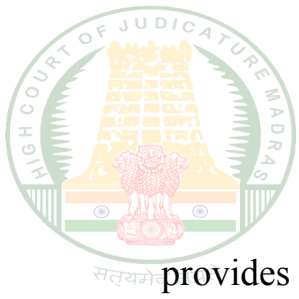
W.A Nos. 1555 and 1557 of 2024

WEB COPY

2.1. In response, the 1st respondent/writ petitioner, along with three other bidders, submitted bids pursuant to the aforesaid tender documents. The Bid Opening Committee, comprising engineers and officers from the office of the Superintending Engineer, Salem City Municipal Corporation, Tamil Nadu, opened the technical bids submitted by all the bidders, including that of the 1st respondent/writ petitioner.

2.2 Upon evaluation, the technical bids of M/s. Aquatech Solutions Pvt. Ltd., Pune, M/s. Kevadiya Constructions Pvt. Ltd., Ahmedabad, and the appellant were found to be substantially responsive and compliant with the requirements specified in the bidding documents. The Bid Accepting Committee further noted that the aforesaid three bidders were regular contractors, registered as Clause-I contractors, and thereby eligible to undertake contracts of unlimited upper value. The Committee also took note of the undertaking given by the appellant stating that, if required, additional labour, engineers, and machinery would be mobilised.

2.3. However, invoking Clause 4.8 of the tender documents, which



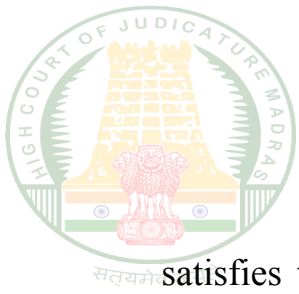
W.A Nos. 1555 and 1557 of 2024

WEB COPY

provides for the disqualification of bidders despite satisfying the qualifying criteria if they are found to have made misleading or false representations, the 1st respondent/writ petitioner was disqualified from participating further in the tender process. The ground cited was that the 1st respondent/writ petitioner had made misleading representations, particularly with reference to the value of remaining similar works undertaken earlier.

2.4. Aggrieved by the said disqualification, the 1st respondent/writ petitioner filed the aforementioned writ petitions. The learned Single Judge, after hearing the parties and perusing the records, held that the rejection of the technical bid of the 1st respondent/writ petitioner was not only illegal but also perverse, and hence liable to be quashed. Consequently, the learned Single Judge directed the appellant to open the financial bid of the 1st respondent/writ petitioner and proceed with the tender process accordingly. It is against the said common order that these intra-court appeals have been preferred.

3. Mr. R. Baskaran, learned Additional Advocate General, appearing for the appellant/Corporation, contended that Clause 4.8 of the tender documents expressly empowers the authority to disqualify a bidder, even if he otherwise



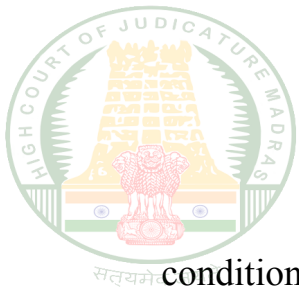
W.A Nos. 1555 and 1557 of 2024

WEB COPY

satisfies the technical criteria, if it is found that he has misled or made false representations regarding (i) inordinate delay in completion of similar works undertaken, or (ii) litigation history. According to him, the 1st respondent/writ petitioner had misrepresented the actual value of works remaining incomplete and also failed to furnish the necessary certificates to substantiate completion of works. Thus, he squarely fell within the ambit of misrepresentation contemplated under Clause 4.8.

3.2. The learned Additional Advocate General further submitted that the rejection of the technical bid of the 1st respondent/writ petitioner, in the absence of any arbitrariness, irrationality, mala fides, bias, or perversity, could not have been interfered with by the learned Single Judge in exercise of writ jurisdiction. He also argued that the 1st respondent/writ petitioner had not substantially completed a similar work to the extent of at least 90%, which was a prerequisite for consideration.

3.3. In addition, it was contended that the 1st respondent/writ petitioner lacked the financial capacity to undertake a project of the present magnitude. Therefore, the rejection of the technical bid was in strict conformity with the



W.A Nos. 1555 and 1557 of 2024

WEB COPY

conditions prescribed in the tender documents. By overlooking these material aspects, the learned Single Judge committed a serious error in interfering with the tender process.

3.4. In support of his submissions, the learned Additional Advocate General relied upon the following judgments;

- 1. Jagdish Manda Vs. State of Orissa and Others [(2007) 14 SCC 517]***
- 2. Sam Built Well Private Limited Vs. Deepak Builders and Others, [(2018) 2 SCC 176]***
- 3. SILPPI Constructions Contractors vs. Union of India and Another, [(2020) 16 SCC 489]***
- 4. State of Madhya Pradesh and Another Vs. Uttar Pradesh State Bridge Corporation Limited and Another, [(2022) 16 SCC 633]***
- 5. Association of Registration Plates Vs. Union of India and Others, [(2005) 1 SCC 679]***

4. Per contra, Mr. P.J. Rishikesh, learned counsel appearing for the 1st respondent/writ petitioner, submitted that in the bid documents, the 1st respondent/writ petitioner had specifically disclosed that the value of the remaining work to be completed in respect of similar projects entrusted to it by the Tiruchirappalli Corporation, the Vellore Corporation, and the Chennai



W.A Nos. 1555 and 1557 of 2024

WEB COPY

Metropolitan Water Supply and Sewerage Board. Except for a marginal variation in the approximate value of the remaining work as reflected in the bid documents vis-à-vis the communications issued by the said entities, there was no deliberate misrepresentation on the part of the 1st respondent/writ petitioner, nor was any undue advantage sought to be gained for the purpose of qualifying in the technical bid. It was argued that the appellant, with an intention to favour a particular bidder, arbitrarily invoked Clause 4.8 of the tender document solely to disqualify the 1st respondent/writ petitioner, who was otherwise fully qualified and eligible to participate in the tender process.

5. The learned counsel for the 1st respondent/writ petitioner further contended that the appellant's submission regarding the alleged lack of financial capacity of the 1st respondent/writ petitioner is untenable. This is for the simple reason that the rejection of the technical bid was founded only on the ground of alleged misrepresentation, and not on financial incapacity. Hence, the validity of the rejection cannot be sustained by introducing extraneous grounds or substituting reasons that do not form part of the original rejection order. It was further urged that the judgments relied upon by the learned Additional Advocate General for the appellant are clearly distinguishable on facts and inapplicable to



W.A Nos. 1555 and 1557 of 2024

WEB COPY

the present case. On these premises, the learned counsel prayed for dismissal of the present appeals as being devoid of merit and sought for confirmation of the order passed by the learned Single Judge.

6. We have carefully considered the rival submissions advanced on behalf of the learned counsel for the parties. The material placed on record has also been duly perused.

7. The two tender documents issued by the appellant pertain to the same work, albeit in different zones and wards of the Salem Municipal Corporation. The terms and conditions of both tender documents are identical. Clause 4.5 prescribes the qualification criteria. Clause 4.5.1 relates to the requirement of financial turnover, while Clause 4.5.2 pertains to contracts of similar size and nature. The said clause stipulates that, for the purpose of qualification, a contract shall be treated as “substantially completed” if at least 90% of the work has been executed. In such an event, the value of the completed portion of the contract shall be deemed to be equal to or greater than the minimum value defined in the eligibility criteria. Clause 4.5.3 further prescribes the minimum qualification criteria relating to bid capacity, requiring that the available bid



W.A Nos. 1555 and 1557 of 2024

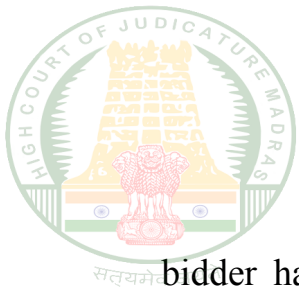
सत्यमेव जयते capacity of the bidder must be more than the total bid value.

WEB COPY

8. In addition to the aforesaid clauses, other ancillary criteria were also prescribed for qualifying under the technical bid. After evaluating the technical bids of the 1st respondent/writ petitioner as well as the other bidders, the Bid Opening Committee arrived at the following conclusions and recommendations:

- i) The bids submitted by all the bidders, including that of the appellant, except for Bidder No. 3, were found to be satisfactory and substantially responsive. These bids were duly scrutinised with reference to the documents prescribed under the bidding conditions, and were considered compliant with the requirements stipulated therein.
- ii) As noted earlier, the Committee also observed that the 1st respondent/writ petitioner had furnished an undertaking to the effect that, if required, additional labour, engineers, and machinery would be mobilised for the timely execution of the work.

9. The Committee, after evaluating the bid submitted by the 1st respondent/writ petitioner, came to a categorical conclusion that the bid was, on the face of it, satisfactory and substantially responsive to the requirements of the tender documents. However, it was noted that Clause 4.8 of the tender documents empowers the authority to disqualify a bidder if it is found that the

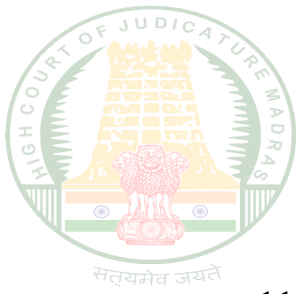


W.A Nos. 1555 and 1557 of 2024

WEB COPY

bidder has misled or made false representations in the forms, statements, or attachments submitted in proof of qualification requirements and/or has a record of poor performance, such as abandoning works, failing to complete contracts properly, causing inordinate delays in completion, having a history of litigation, or having suffered financial failures, even if the bidder otherwise qualifies in the technical bid.

10. Relying on Clause 4.8, the Committee concluded that the information furnished by the 1st respondent/writ petitioner in respect of four similar projects entrusted to it by different entities was neither accurate nor genuine. The Committee further held that the discrepancies amounted to false representation and also demonstrated inordinate delays in the completion of the said projects. Consequently, the 1st respondent/writ petitioner was held to have incurred disqualification under Clause 4.8 of the tender conditions.



WEB COPY

11. In support of the disqualification, the appellant placed reliance on communications issued to the aforesaid entities and the responses received therefrom, which revealed the following:

i. Communication dated 24.11.2023 to the Chennai Metro Water Supply and Sewerage Board (CMWSSB): The appellant extracted the particulars furnished by the 1st respondent/writ petitioner, wherein it had declared that the value of the contract awarded was Rs. 150 Crores, the balance work remaining to be completed was Rs. 30 Crores, and the anticipated date of completion of the project was 15.07.2024.

ii. Response of CMWSSB dated 20.12.2023:

The Board clarified that the actual balance of work remaining was Rs. 41.38 Crores, not Rs. 30 Crores as declared, and further confirmed that the extension of time for completion had been granted only up to 31.03.2024.

iii. Communication to the Tiruchirappalli Corporation:

The appellant also sought verification of the correctness of the information furnished by the 1st respondent/writ petitioner with respect to the balance value of work remaining to be executed in the contracts awarded by the said Corporation.



W.A Nos. 1555 and 1557 of 2024

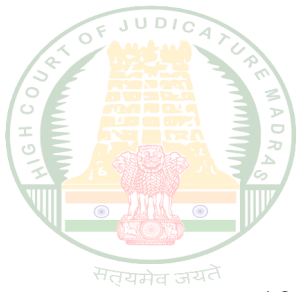
WEB COPY iv. Response of the Tiruchirappalli Corporation dated 06.12.2023:

It was clarified that, in respect of Package I, the balance value of work remaining was Rs.70.16 Crores, whereas the 1st respondent/writ petitioner had declared it as only Rs. 30 Crores. The Corporation also confirmed that time extensions had been granted on three occasions, with the last extension being valid up to 31.07.2024, which, according to the Corporation, was unbecoming of a responsible contractor.

v. Response of the Commissioner, Vellore Corporation:

It was stated that, in respect of Package I, the balance work remaining to be completed was Rs.71.56 Crores, whereas the 1st respondent/writ petitioner had declared only Rs. 30 Crores. Likewise, in respect of Package II, the balance value of work was Rs. 113.67 Crores, but the 1st respondent/writ petitioner had furnished a figure of only Rs. 40 Crores.

12. Based on the aforesaid communications and responses, the Bid Opening Committee concluded that the 1st respondent/writ petitioner had misled the authorities by furnishing false information and had, therefore, incurred disqualification under Clause 4.8 of the tender documents.



W.A Nos. 1555 and 1557 of 2024

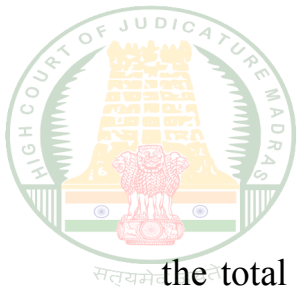
WEB COPY

13. The Committee also noted that the qualification information appended to the tender documents specifically required bidders to furnish details regarding existing commitments and ongoing works. In compliance with the said requirement, the 1st respondent/writ petitioner had provided the particulars. The scanned page of the information is pasted below;

L4(A)		EXISTING COMMITMENTS AND ON-GOING WORKS						Value of	Anticipated	Page
Description of work	Place & State	Contract No. & date	Name and address of employer	Value of contract (in crores)	Stipulated period of completion	Value of works remaining to be completed (in crores)	date of completion	No. Of Technical Bids		
1	2	3	4	5	6	7	8			
			The Commissioner Tiruchi City Corporation	240.65	31.07.2024	30	31.07.2024			
Providing Underground Sewerage Scheme to Tiruchi City Corporation, Package - I	Tiruchirappalli, Tamil Nadu	Roc.No.E7/1228/2015(H) dt:19.12.2018	The Commissioner Vellore City Municipal Corporation	143.73	31.07.2024	30	31.07.2024			
Providing UGSS to Vellore Corporation, Package - 1	Vellore, Tamil Nadu	Roc.No.17598/2016/EI dt:19.12.2018	The Commissioner Vellore City Municipal Corporation	163.41	31.07.2024	40	31.07.2024			
Providing UGSS to Vellore Corporation, Package - 2	Vellore, Tamil Nadu	Roc.No.17598/2016/EI dt:19.12.2018	The Superintending Engineer (C&B) CMWSS Board, Chennai - 2	150.00	15.07.2024	30	15.07.2024			
Providing Comprehensive sewerage scheme to Manali, Chinnasekkadu, Karambakkam and Manapakkam in Chennai City	Chennai, Tamil Nadu	CMWSSB/CNT/SEW/NCB/AMRUT/ADB/001/2017-18 dt:06.03.2018								
			TOTAL			138				

for SUBARNA CONSTRUCTION COMPANY P. LTD
Director

14. As per the information furnished, the 1st respondent/writ petitioner provided particulars regarding the description of works entrusted to it and yet to be completed, the dates of contract, the names and addresses of the employers,

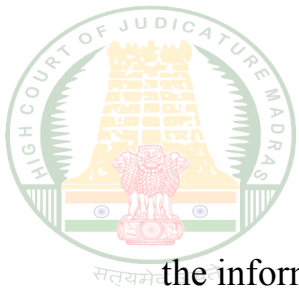


W.A Nos. 1555 and 1557 of 2024

WEB COPY

the total value of the contracts, the stipulated periods of completion including extensions granted, and the value of the works remaining to be executed. The cumulative value of the balance work was stated to be approximately Rs. 130 Crores in respect of four projects undertaken by the 1st respondent/writ petitioner. The 1st respondent/writ petitioner, in its bid, had disclosed the value of the remaining works to the best of its understanding. However, the respective employers, in their replies to the appellant, stated that the values declared by the 1st respondent/writ petitioner were not genuine. They also made observations that repeated extensions of time granted to the 1st respondent/writ petitioner for completion of the projects were unbecoming of a contractor.

15. In our view, once the said employers themselves had extended time for completion of the projects, it was not open for them to brand the 1st respondent/writ petitioner as “unbecoming of a contractor.” This is particularly so when, as on the date of furnishing the information to the appellant, none of the contracts entrusted to the 1st respondent/writ petitioner had been terminated. Furthermore, there is nothing on record to show that any adverse remarks or penalties had been imposed upon the 1st respondent/writ petitioner for failure to complete the works within the original stipulated period. In such circumstances,



W.A Nos. 1555 and 1557 of 2024

WEB COPY

the information furnished regarding the value of the remaining work can only be treated as approximate, since the precise value can be ascertained only after survey and measurement of the works at site.

16. The learned Single Judge, in the impugned order, observed that the appellant, either in its counter affidavit or during arguments, had not raised any objection regarding the financial capacity of the 1st respondent/writ petitioner, especially when the technical bid had already been accepted and declared to be satisfactory and substantially responsive. Therefore, a mere variation in the figures relating to the remaining value of work to be completed, as furnished by the 1st respondent/writ petitioner vis-à-vis the figures communicated by the employers, cannot be treated as misrepresentation causing prejudice to the appellant. The learned Single Judge held that once the 1st respondent/writ petitioner was found financially capable of executing the project and had undertaken similar projects earlier, and in the absence of any order terminating such works, the variation in the remaining value of work cannot be elevated to the level of a false representation.

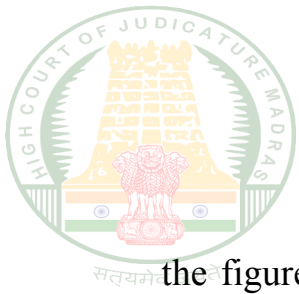


W.A Nos. 1555 and 1557 of 2024

WEB COPY

17. Moreover, it is pertinent to note that the disqualification of the 1st respondent/writ petitioner was founded exclusively on the ground of alleged misrepresentation, and not on the basis of any deficiency in financial capacity. It is a well-settled principle of law that an administrative or quasi-judicial order must stand or fall on the reasons recorded therein, and the validity of such an order cannot be sustained or justified by supplementing fresh reasons in the form of an affidavit or a counter filed subsequently before the Court. Any attempt to substitute or improve upon the reasons contained in the impugned order by way of subsequent pleadings is impermissible in law, as the legality of the order is to be tested only on the basis of the reasons contemporaneously recorded at the time of its passing.

18. The learned Advocate General, appearing before the learned Single Judge, had also conceded that the issue of pending litigation, cited as one of the grounds for rejection, pertained only to the payment of GST and was not related either to the completion of the contract or to the quality of the work executed by the 1st respondent/writ petitioner. The learned Single Judge also took note of the working sheets produced by the 1st respondent/writ petitioner in support of



W.A Nos. 1555 and 1557 of 2024

the figures furnished regarding the remaining work. On this basis, the learned single judge concluded that the information relating to the value of the remaining works could not be construed as false representation.

19. The learned Single Judge further examined the extension letters issued by the employers and found that no adverse remarks were recorded against the 1st respondent/writ petitioner for not having completed the projects within the originally stipulated time. Rather, the time for completion was formally extended, and as of date, there was no material to show that the works entrusted had been terminated or that the 1st respondent/writ petitioner had been blacklisted.

20. The learned Single Judge also adverted to the interim order passed by this Court on 09.01.2024, directing the appellant to open the financial bid of the 1st respondent/writ petitioner, compare the prices, and file a tabulation of the comparative price bids in a sealed cover. The appellant contended that the financial bid could not be opened unless the technical bid was accepted. On this aspect, the learned Single Judge rightly observed that the conduct of the appellant in refusing to comply with the Court's direction was mala fide and



W.A Nos. 1555 and 1557 of 2024

WEB COPY

against the interest of the State exchequer. It was also noted that the 1st respondent/writ petitioner had brought to the notice of the learned single judge that its bid was lower by more than Rs. 40 Crores as compared to the bid quoted by the next lowest bidder.

21. On 03.01.2025, when these appeals were taken up for hearing by another Division Bench of this Court, a query was raised as to why the order of the learned Single Judge dated 09.01.2024 had not been complied with. During the hearing, the Division Bench noticed a very disturbing tendency on the part of the authorities and, in order to seek clarification, summoned a senior officer of the Indian Administrative Service, Dr. Vaithiyanathan, who was serving as the Commissioner of Tiruchirappalli City Municipal Corporation at the relevant time.

22. It came to light that Dr. Vaithiyanathan had, on 06.12.2023, addressed a communication to the appellant, terming the conduct of the 1st respondent/writ petitioner in seeking extensions of time on three occasions as “unbecoming of a contractor.” However, the Division Bench noted with concern that the very same officer had, on 18.12.2023, issued a certificate stating that the



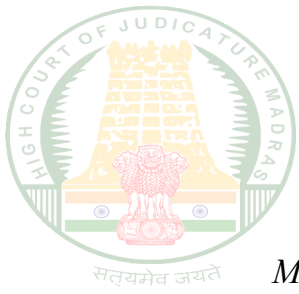
W.A Nos. 1555 and 1557 of 2024

1st respondent/writ petitioner had successfully completed a project worth Rs.185.17 Crores under the agreement dated 09.01.2019. That certificate had, in fact, been issued in favour of the 1st respondent/writ petitioner to enable it to participate in government tenders.

23. Therefore, the responses issued by the earlier employers, wherein it was stated that the information furnished by the 1st respondent/writ petitioner with regard to the value of the remaining work to be completed was not genuine, cannot be sustained. This is for the reason that such responses were not based on any authentic material or evidence in the form of survey or measurement of the work already completed by the 1st respondent/writ petitioner.

24. In ***Jagadish Mandal*** (supra), the Hon'ble Supreme Court laid down the following principles:

“Principles of equity and natural justice stand at a distance. If the decision relating to award of contract is bona fide and in public interest, the courts, while exercising power of judicial review, will not interfere even if there is a procedural aberration, an error in assessment, or some prejudice caused to a tenderer. It was further held that when the tender was to be accompanied by an Earnest



W.A Nos. 1555 and 1557 of 2024

WEB COPY

Money Deposit (EMD) as prescribed, and if the postal department which issued the TD passbook pledged by the fifth respondent towards the EMD stated that the same should not be acted upon, the Committee was not required to undertake any further enquiry about its genuineness or hold up the evaluation of the tenders.

It was also held that unless the court is satisfied that there is a substantial amount of public interest involved, or that the transaction has been entered into with mala fides, the court should not interfere under Article 226 in disputes between rival tenderers. In that case, the Committee was neither blacklisting the tenderer nor imposing any penal consequences upon him. It was merely treating the tender as defective. Hence, there was no necessity to provide an opportunity to the tenderer to show cause at that stage, and failure to do so could not render the Committee's action in treating the EMD as defective, illegal or arbitrary."

25. The proposition of law laid down in the above case is not directly applicable to the facts of the present matter, as the 1st respondent/writ petitioner was disqualified not on account of procedural defects but on the ground of alleged misrepresentation. However, the ratio is applicable to the limited extent that Clause 4.8 of the tender document does not mandate the grant of an opportunity of hearing prior to disqualification. Consequently, the appellant was under no obligation to afford such an opportunity, and to that extent, the finding



W.A Nos. 1555 and 1557 of 2024

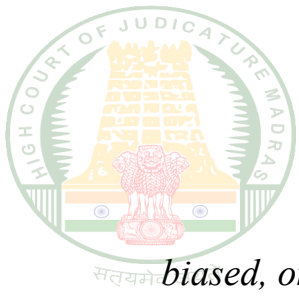
WEB COPY

recorded by the learned Single Judge that the disqualification is vitiated for violation of the principles of natural justice cannot be sustained.

26. In ***Sam Built Well Private Limited*** (supra), the Apex Court observed that “*the High Court ought to have refrained from giving its own interpretation unless it had come to a clear conclusion that the interpretation given by NMRCL was perverse, mala fide, or intended to favour one of the bidders.*”

27. In the present case, the disqualification of the 1st respondent/writ petitioner is not on account of any interpretation of the tender clauses but solely on the allegation of misrepresentation. Therefore, the dictum in ***Sam Built Well*** (supra) does not apply to the facts at hand.

28. In ***Silppi Constructions Contractors*** (supra), the Apex Court held that “*Courts should not ordinarily interfere in commercial matters, especially in contracts involving technical issues. The Court emphasized that judges do not possess the requisite technical expertise to adjudicate on such matters, and therefore, overwhelming public interest is necessary to justify judicial intervention. It was also held that courts should defer to the opinion of experts unless the decision is found to be totally arbitrary, unreasonable, mala fide,*



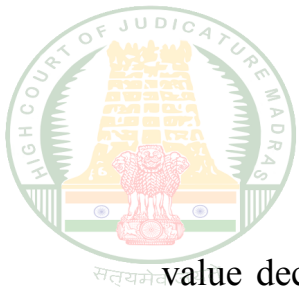
W.A Nos. 1555 and 1557 of 2024

सत्यमेव *biased, or perverse."*
WEB COPY

29. In the present case, the learned Single Judge has not ventured into interpreting the clauses of the tender documents that prescribe the criteria for technical qualification. Instead, the learned Single Judge confined the examination to the issue of whether the 1st respondent/writ petitioner was rightly disqualified under Clause 4.8. Therefore, the mandate in *Silppi Constructions Contractors (supra)* does not strictly apply.

30. In *State of Madhya Pradesh and Another (supra)*, the Apex Court held that *"the soundness of a decision may be questioned if it is irrational, mala fide, intended to favour someone, or is such that no reasonable authority acting in accordance with law could have reached. In that case, the rejection of a technical bid on the ground of suppression of information was upheld, as the tenderer had failed to disclose the registration of an FIR against him for the collapse of a bridge that caused several fatalities"*

31. In contrast, in the present matter, there is no suppression by the 1st respondent/writ petitioner regarding the value of remaining work under earlier contracts. The dispute merely arises from the earlier employers stating that the



W.A Nos. 1555 and 1557 of 2024

WEB COPY

value declared by the 1st respondent/writ petitioner was not genuine, and that the actual value was higher.

32. As already discussed above, the 1st respondent/writ petitioner has not made any misrepresentation. Hence, the decision in State of Madhya Pradesh (supra) also does not assist the appellant in justifying the disqualification under Clause 4.8 of the tender documents.

33. In *Association of Registration Plates* (supra), it was held that *"preconditions or qualifications for tenders are prescribed to ensure that contractors possess the capacity and resources to execute the work successfully, and that tender conditions are generally unassailable unless the tendering authority's action is malicious or constitutes a misuse of statutory powers."*

34. In the present case, the 1st respondent/writ petitioner has not challenged the validity of the tender conditions. Similarly, the learned Single Judge has not adjudicated upon the legality of Clause 4.8 or any other clause. Thus, the reliance placed on *Association of Registration Plates* (supra) by the appellant is misplaced. Further, the appellant has not categorically denied, nor produced any proof against, the contention of the 1st respondent/writ petitioner

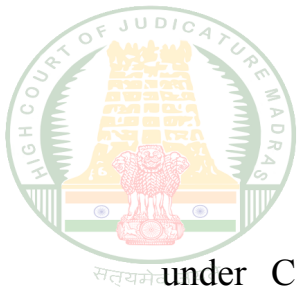


W.A Nos. 1555 and 1557 of 2024

that its quoted amount was less by nearly Rs. 40 crores compared to the lowest bid offered by other bidders. This strongly suggests that the appellant deliberately withheld opening of the respondent's price bid, thereby substantiating the allegation of bias and prejudicial conduct intended to favour a particular entity. Mere grant of extensions by earlier employers for completion of pending projects cannot, by itself, be construed as inordinate delay sufficient to invoke Clause 4.8 for disqualification.

35. Delay in completing a project cannot always be attributed solely to the contractor. Such delays often arise from reasons beyond the contractor's control, and sometimes may even be attributable to the employer. In construction contracts, particularly those relating to underground sewerage systems and their operation and maintenance, extensions of time are common. In the present case, extensions were granted to the 1st respondent/writ petitioner without the imposition of any penalty. This clearly shows that the employers themselves did not consider the delay as culpable or deliberate on the part of the 1st respondent/writ petitioner.

36. In light of the foregoing discussion, we hold without hesitation that the action of the appellant in disqualifying the 1st respondent/writ petitioner



W.A Nos. 1555 and 1557 of 2024

WEB COPY

under Clause 4.8 of the tender documents suffers from arbitrariness, is unsupported by material, and appears actuated by mala fides. The learned Single Judge has meticulously examined all relevant aspects in their proper perspective and has rightly passed the impugned order. We find no illegality or infirmity warranting interference in the said order.

37. Accordingly, these writ appeals are dismissed. Consequently, the connected Miscellaneous Petitions stand closed. There shall be no order as to costs.

(R.S.K.,J) (H.C., J)

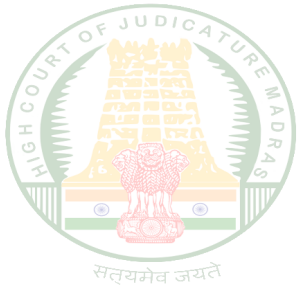
08 .10.2025

Index : Yes

Internet : Yes

Neutral Citation : Yes

ak



WEB COPY



W.A Nos. 1555 and 1557 of 2024

R. SURESH KUMAR, J.

and

HEMANT CHANDANGOUDAR, J.,

ak

Pre-delivery Judgment in

W.A Nos. 1555 and 1557 of 2024

08.10.2025