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WP.No.16226 of 2024

In the High Court of Judicature at Madras

Reserved on 10.7.2025	Delivered on : 15.7.2025
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.16226 of 2024
& WMP.No.17772, 17776 & 17777 of 2024

M/s.Shree Balaji Enterprises
rep.by its Authorized
Signatory P.Ramachandran

...Petitioner

Vs

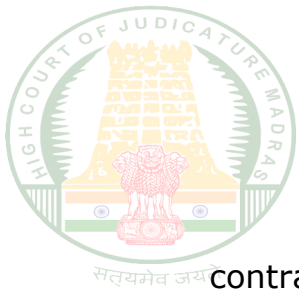
1.The Senior Divisional Mechanical
Engineer, Chennai Division,
Southern Railway, Chennai-3.

2.The Divisional Railway Manager,
Chennai Division, Southern
Railway, Chennai-3.

3.M/s.Tharu & Sons, II Floor,
Kalamassery Service Cooperative
Bank Building, North Kalamassery,
Ernakulam, Kerala - 683104.

...Respondents

PETITION under Article 226 of The Constitution of India praying
for the issuance of a Writ of Certiorarified Mandamus to call for the
records of the 1st respondent herein in his proceedings bearing



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contract No.GEM-511687717222000 dated 10.6.2024 pursuant to tender Bid/RA/PBP No.GEM/2023/B/4270364 dated 01.12.2023 in favour of the 3rd respondent herein, quash the same as being illegal, arbitrary and biased in violation of the tender condition and consequently direct the 1st respondent herein to award the contract to the petitioner herein being L2 in the price bid evaluation.

For Petitioner	:	Mr.R.Ravi
For R1 & R2	:	Mr.K.Subbu Ranga Bharathi, CGSC
For R3	:	Mr.L.Palanimuthu

ORDER

This writ petition has been filed questioning the proceedings of the first respondent dated 10.6.2024 issuing work order in favour of the third respondent pursuant to the tender dated 01.12.2023 and for a consequential direction to the first respondent to award the contract in favour of the petitioner.

2. Heard the respective learned counsel appearing for both parties.



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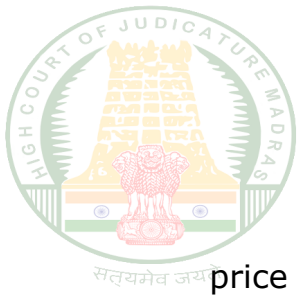
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3. The case of the petitioner is as follows :

(i) The first respondent invited open tenders in two packet system of tendering for the work called "interior cleaning and watering of OEA trains" for a period of four years. The approximate tender value was fixed at Rs.39.29 Crores, which is inclusive of GST. The petitioner and the third respondent participated in the tender and the third respondent was declared as "L1" and the petitioner was declared as "L2".

(ii) The grievance expressed by the petitioner is that the third respondent violated the basic tender condition with regard to deposit of earnest money deposit (EMD) to qualify for the bid by claiming that it is a micro and small enterprise registered under the National Small Industries Corporation whereas it is a medium enterprise by means of volume of turnover for the relevant financial year and the subsequent years.

(iii) The other grievance expressed by the petitioner is that the rate quoted by the third respondent is untenable since, with that rate, the third respondent could not involve 233 staff members every day and would not be able to pay minimum wages to them. That apart, earlier, the petitioner approached this Court questioning the untenable



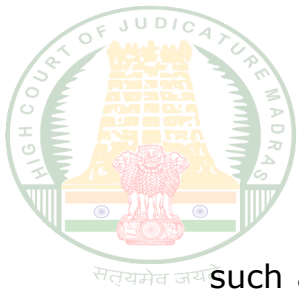
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price quote given by the third respondent and not to confirm the financial bid in their favour by filing W.P.N.14437 of 2024. But, even before the said writ petition was considered, the work order has been granted in favour of the third respondent. Hence the writ petition.

4. Respondents 1 and 2 filed a counter affidavit wherein they took the following stand :

The tender condition itself mandates ensuring payment of minimum wages, employees' provident fund (EPF) and employees' state insurance (ESI), etc and if the same is not complied with, the work order issued in favour of the third respondent would be cancelled. In so far as the other ground taken by the petitioner is concerned to the effect that the third respondent is not a micro, small and medium enterprise (MSME), reliance is placed on the Notification issued by the Ministry of MSME, New Delhi dated 18.10.2022 wherein amendments were brought forth to the earlier Notification dated 26.6.2020 and it was specifically stated that in case of an upward change in the terms of investment in plant and machinery or equipment or turnover or both and consequent re-classification, an enterprise should continue to avail of all non-tax benefits of the category (micro or small or medium) and



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such advantage was permitted to be taken for a period of three years from the date of such upward change. Accordingly, respondents 1 and 2 supported the work order that was issued in favour of the third respondent and ultimately sought for dismissal of this writ petition.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order.

6. In so far as the first ground that was raised by the learned counsel for the petitioner is concerned pertaining to payment of minimum wages to the workers, who are engaged in the work, the tender condition itself makes it clear that if the same is not complied with, the work order would be cancelled. This stand has been once again reiterated in the counter affidavit filed by respondents 1 and 2. Therefore, there cannot be an assumption that the bid that was submitted by the petitioner will result in exploitation of labour or that they will not be paid the minimum wages. If there is any such complaint, the official respondents will take care of it. Such assumption, by itself, will not be a ground for interfering with the work



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order issued in favour of the third respondent.

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7. In so far as the other ground relating to exemption of EMD claimed by the third respondent is concerned, it is seen that the third respondent has been issued Udyam registration certificate by the Government of India, MSME. With regard to the increase in the turnover of the third respondent, that, by itself, will not result in the third respondent being considered as a medium enterprise. This is more so by virtue of the Notification issued by the Central Government dated 18.10.2022 wherein it has been made clear that an entity can retain its status for a period of three years from the date of such upward change in their volume of turnover.

8. This Court does not find any illegality in the work order issued in favour of the third respondent. Further, no grounds are made out by the petitioner for interference. The petitioner, which stood as "L2", has questioned the work order that was issued in favour of the third respondent, which was "L1" merely on assumptions without making out any ground for interference.



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9. Accordingly, the writ petition stands dismissed. No costs.

Consequently, the connected WMPs are also dismissed.

15.7.2025

To

1.The Senior Divisional Mechanical
Engineer, Chennai Division,
Southern Railway, Chennai-3.

2.The Divisional Railway Manager,
Chennai Division, Southern
Railway, Chennai-3.

RS



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N.ANAND VENKATESH,J

RS

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