



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-07-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 25857 of 2025

AND

WMP NOs. 29071 and 29072 OF 2025

1. Gk Power Expertise Private
Limited
Rep By Its Authorized Signatory,
Mr. K.T. Thiruzhagan 4th Floor,
3/83, Mount Poonamalle Road,
Manapakkam, Chennai District,
600 125.

Petitioner(s)

Vs

1. Union Of India
Rep By Its Secretary, Ministry
Of Railways Department, Rail
Bhawan, Rail Marg, Raisena
Road, New Delhi- 110 001.

2.The Chairman
Railway Board, Rail Bhawan,
Rafi Marg, Raisena Road, New
Delhi- 110 001.

3.The Principal Executive
Director
Traction Installation Directorate,
Research Designs An Standards
Organization, Manak Nagar,
Lucknow- 226 011.

4.The General Manager



General Manager Office, General
Branch, 1st Floor, Ngo Main
Building, Southern Railway,
Park Town, Chennai- 600 003.

5.The Principal Chief Electrical
Engineer
General Branch, 1st Floor, NGO
Main Building, Southern
Railway, Park Town, Chennai-
600 003.

6.The Deputy Chief Electrical
Engineer
General Branch, 1st Floor, NGO
Main Building, Southern
Railway, Park Town, Chennai-
600 003.

7.The Principal Chief Electrical
Engineer
Sec Railway, Bilaspur, RTS
Colony, Railway Colony,
Bilaspur, Chhattisgarh.

Respondent(s)

PRAYER

Writ petition filed under Article 226 of Constitution of India for the issuance of writ of Certiorarified Mandamus to call for the records pertaining to the e- Tender dated 19.06.2025 bearing Tender no. CONV- AFL - 2x25kV-SR- 01A issued by the 6th Respondent and quash the same, consequently directing the 6th Respondent to issue a fresh tender in Strict compliance with clause 7.4 of the Specification prescribed by the 3rd Respondent for the Automatic Fault Locator (AFL), within a time frame as may be fixed by this Court.



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WP No. 25857 of 2025



For Petitioner(s): Mr.V.Karthick, Senior
counsel for Mr. R.Sivaraman
For
Respondent(s): Mr.A.R.L.Sundaresan
Additional Solicitor General
Assisted by
Mr.M. Ramamoorthi,
Senior Panel Counsel For
Respondents 1 to 7

ORDER

This writ petition has been filed challenging the e-tender dated 19.06.2025 issued by the 6th respondent and for a consequential direction to the 6th respondent to issue a fresh tender in strict compliance with clause 7.4 of the specification prescribed by the 3rd respondent for the Automatic Fault Locator (AFL), within a time frame fixed by this Court.

2. The main ground that was raised by the learned Senior counsel appearing on behalf of the petitioner is that the petitioner is engaged in the supply of control relay panels and other Railways electrification components. The petitioner is excluded from participating in the tender floated by the 6th respondent since there is a mandate for completion of a three months field trial as a pre-condition for eligibility which according to the petitioner is contrary



to the RDSO specification dated 06.01.2025 that treats field trial has a post-award obligation.

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3. The respondents have filed a counter affidavit and the rejoinder has also been filed on the side of the petitioner.

4. Before going into the merits of the case, it will be more appropriate to take note of the earlier order passed by this Court in WP No.5677 of 2025 dated 25.02.2025, when the same petitioner approached this Court and challenged the tender dated 30.01.2025 and for a consequential direction to allow the petitioner to participate in the tender for supply of AFL by imposing fair conditions.

5. The main issue that was involved in the said writ petition is captured at Paragraph No.3 and 4 of the order, which are extracted hereunder :-

3. The Learned Senior Counsel, after reiterating the grounds raised in the writ petition, would refer to the impugned tender conditions, specifically under the caption -Eligibility Conditions-. The learned Senior Counsel would rely on the Technical Criteria and Special Eligibility Criteria that are insisted upon. The tender specifically requires participants to comply with the RDSO specifications. It clearly states that the items must be

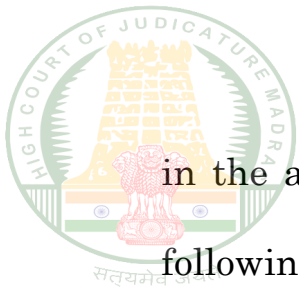


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supplied strictly in accordance with the latest RDSO specifications. Additionally, it mandates that the manufacturer must have conducted field trials for a minimum duration of three months on 2x25 systems utilized by the Indian Railways. These trials should demonstrate the effectiveness and reliability of the system under operational conditions in line with the RDSO specifications. It also further mandates that the field trials are fully completed before the prescribed time for tender opening.

4. The Learned Senior Counsel points out that the date of opening of the tender is 03.03.2025. The latest RDSO specifications were published only on 06.01.2025. The petitioner is a manufacturer of the equipment, and its system is ready to undergo the field trial. The petitioner has already sought permission from the respondents to conduct the field trial in the systems utilized by the Indian Railways. There is only one system that the Indian Railways have upgraded to 2x25 KV. The respondents have yet to give permission to the petitioner, and it will take three months for the petitioner to complete the trial. Before the mandatory three-month trial, the date of opening of the tender falls. Therefore, the petitioner will obviously be disqualified. Not only will the petitioner be disqualified, but any prospective tenderer will also be disqualified. The Tender Conditions have been framed without proper consideration and are arbitrary and unfair. Therefore, this Court should intervene in the matter.

6. While dealing with the above issues, the learned Single Judge focused on the fact that the tender condition gave an impression as if the field trials will occur only in the corridor of Indian Railways and not in any other dedicated corridor. Therefore,



in the absence of a clarity, the writ petition was disposed of in the following terms :-

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10. Therefore, if the tender conditions are reviewed alongside the RDSO specifications, it is evident that it is not essential for every tenderer to conduct a field trial only after 06.01.2025. Firms that have already successfully completed their prototype testing and field trials, or have installed and commissioned AFL on the systems of both the Indian Railways and the Dedicated Corridors, are exempt and therefore will be eligible to participate in the tender. However, it appears that the petitioner has developed a new product, which has yet to undergo field testing. In this situation, the petitioner cannot insist that until they complete the field run and join as an eligible tenderer, no tender should proceed at all. The impugned tender pertains to certain sections in the Southern Railway, as indicated in the work-s name. Consequently, various sections of the Railways will be upgraded periodically, and once the petitioner-s field trial is conducted and they become eligible, they can participate in subsequent tenders. The petitioner cannot prevent the respondents from proceeding with the tender until they become eligible.

11. At the same time, it can be seen that the impugned tender documents do not clearly specify that the field trial would adhere to RDSO 7.4.1. Although this can be implied by reading both documents together, the tender documents explicitly state that the field trials should occur on Indian Railways, which leaves room for confusion. Prospective vendors who have already received approval for their products on various Dedicated Corridors may think that only those vendors who have conducted free trials on Indian Railways will be eligible. Therefore, it is the respondents- duty to clarify the position. Since the deadline for participation is on 03/03/2025, and today is 25.02.2025, the respondents can issue an



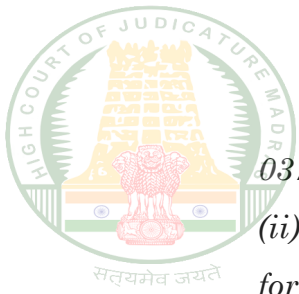
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Addendum/Corrigendum to clarify that all individuals who have conducted field trials in the Dedicated Corridor can also participate in the tender under the eligibility criteria, which shall include all exempted vendors.

12. As a matter of fact, when the exemption extracted above is granted to different types of persons, such as those firms that have successfully completed prototype testing and field trials or have installed and commissioned AFL on the 2x25KV AC traction system of Indian Railways as well as the DFCCIL, and when the tender conditions specifically omit the term -DFCCIL- and state that testing should be conducted only in systems utilized by ?Indian Railways?, a contradiction arise as between the stand taken before Court to rationalise the tender conditions and the actual tender conditions. The purpose of the tender is to encourage all eligible vendors to participate, but this creates ambiguity for individuals like the petitioner, who may interpret it as implying that trial runs should only occur in the Corridor of Indian Railways and not in any other Dedicated Corridor. Now, in the counter~affidavit, paragraph No. 8, as well as in the annexure, the respondents suggest that it is applicable in any one of the 15 Sections in both the Dedicated Corridors or the Indian Railways. Therefore, an appropriate Addendum/Corrigendum should be issued to enable all eligible vendors who have tested their equipment in any of the Corridors, as well as in Indian Railways, can participate in the Tender.

13. As a result, the writ petition is disposed of on the following terms:

(i) The impugned tender conditions are upheld on the condition that the respondents issue an Addendum or corrigendum publicly announcing that everyone who has tested their equipment by conducting field trials, installations, or commissioning in any section of the Indian Railways or Dedicated Corridors will be eligible to bid well within the last date for receipt of the bids on



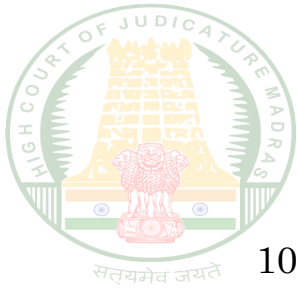
03/03/2025 and they can also extend the last date if needed;

- (ii) *The permission sought by the petitioner to conduct a field trial for its product shall be considered appropriately by the 7th respondent, enabling the petitioner to carry out its trial in any of the segments both under the Indian Railways or Dedicated Corridors expeditiously;*
- (iii) *No costs. The connected miscellaneous petitions stand closed.*

7. Pursuant to the above order, the e-tender was issued by including the issue that was flagged by this Court as an addendum / corrigendum.

8. In the considered view of this Court, the ground that has now been raised by the petitioner was very much available even when the earlier writ petition was filed in WP No.5677 of 2025. If that is so, the said ground ought to have been raised in that writ petition itself.

9. The learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner was not aware of the details that were sought for and it provided under the RTI Act only on 21.02.2025. Therefore, the petitioner had no occasion to raise that ground.



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10. It is now too well settled that constructive *resjudicata* applies even in writ proceedings under Article 226 of the Constitution of India. Useful reference can be made to the judgement of the Apex Court in ***[Sankara Co-operative Housing Society Limited Vs. M.Prabhakar and others]*** reported in ***2011 5 SCC 607*** and the relevant portion is found at Page No.641. Reference can also be made to the judgement of the Apex Court in ***[Celir LLP Vs. Sumati Prasad Bafna and others]*** reported in ***2025 1 MLJ 193***.

11. The ground which was available to the petitioner and which was not raised in the earlier writ petition cannot be permitted to be raised by way of filing a fresh writ petition. Therefore, if the petitioner was not aware of a particular fact which ought to have been raised in the earlier writ petition, the best that could have been done by the writ petitioner is to move a review before the same judge, who passed the final order in the writ petition. Except this option, there is no other option left to the petitioner and the fresh writ petition that has been moved is certainly hit by the principle of constructive *resjudicata*.



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12. In the light of the above discussion, it is not necessary for this Court to go into the ground that has been raised by the petitioner in this writ petition. However, liberty is granted to the petitioner to file a review application and work out their remedy. It goes without saying that it is left open to the respondents to raise all the defence as and when any review application is filed.

13. This writ petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

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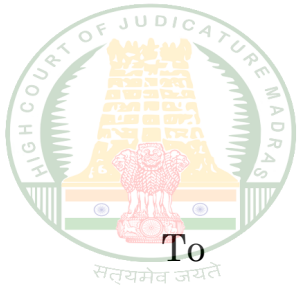
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Index:Yes

Speaking

Internet:Yes

Neutral Citation:Yes



To

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Rep By Its Secretary, Ministry
Of Railways Department, Rail
Bhawan, Rail Marg, Raisena
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2. The Chairman

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