



W.P(MD)No.11230 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P(MD)No.11230 of 2019

P.Sinkaran

... Petitioner

Vs.

1.The Assistant Commissioner of Labour,
Tirunelveli,
Tirunelveli District.

2.The Chief Engineer,
TWAD Board,
Madurai.

3.The Joint Chief Engineer,
TWAD Board,
Contract and Administration,
Chennai.

4.The Superintending Engineer,
TWAD Board,
Kovilpatti,
Thoothukudi District.

5.The Administrative Engineer,
Rural Division,
TWAD Board,
Nagercoil,
Kanyakumari District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the first respondent pertaining to its order bearing No. AAS/5466/2017, dated 14.07.2017 and the consequential order of the fourth respondent bearing letter No.9418/கோ.பதிவு/௨௪/2018, dated 09.04.2018 and quash the same and consequently direct the respondents 2 to 5 to permit the petitioner to participate in the tender called for by the respondents 2 to 5.

For Petitioner : Mr.S.C.Herold Singh

For R-1 : Mr.G.Suryananth
Additional Government Pleader

For R-2 & R-3 : Mrs.Porkodi Karnan

For R-4 & R-5 : Mr.B.Vijaykarthikeyan
Standing Counsel

ORDER

The present writ petition has been filed to call for the records on the file of the first respondent pertaining to its order bearing No.AAS/5466/2017, dated 14.07.2017 and the consequential order of the fourth respondent bearing letter No.9418/கோ.பதிவு/௨௪/2018, dated 09.04.2018 and quash the same and consequently, direct the respondents 2 to 5 to permit the petitioner to participate in the tender called for by the respondents 2 to 5.



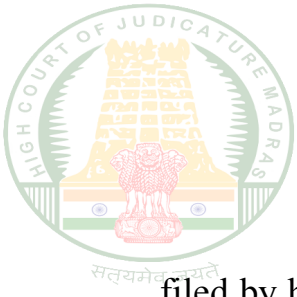
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2. The petitioner states that he is a Class-I Contractor. He was awarded a contract for providing drinking water supply to 79 houses along the seashore. Three more works were awarded to him concerning water supply projects, one at Edaicode-Palukal water project, Villukuri-Alloor water project and Nangunari-Thisianvilai unified drinking water project.

3. The petitioner states he completed all the works in 2016. He pleads, he obtained a certificate from the Administrative Engineer, Nagercoil and applied for registration as principal employer. The first respondent passed an order stating that the certificate is a forgery.

4. The petitioner pleads that steps were taken to remove his name from the list of contractors on the basis of a communication sent to him on 29.08.2017. The petitioner responded to the same on 04.09.2017, giving his explanation. A further notice was issued to him on 18.09.2017 stating that amounts payable to ESI had not paid by the petitioner. This too was responded by him on 03.10.2017, asserting that there are no balance payable and he had also enclosed certificate to that effect. This was followed with an other communication, dated 16.10.2017, seeking queries as regards status of the case

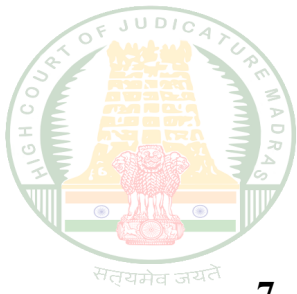


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filed by him and regarding EPF dues. This too had been suitably replied by the petitioner by way of a reply, dated 23.10.2017.

5. The cause of action for this writ petition is that without giving an opportunity to the petitioner, the first respondent had passed the impugned order. The specific ground taken by the petitioner in ground (b) is that prior to passing the impugned order, no notice was issued to the petitioner. He states the reason for cancelling the principal employer certificate of the petitioner is that the petitioner had allegedly forged the signatures of the fifth respondent. The petitioner states had an opportunity been given to him, he would have shown that he has not committed any act of forgery. This Court had entertained this writ petition on 30.04.2019 and issued notice to the respondents.

6. Mr.G.Suryananth, learned Additional Government Pleader appears for the first respondent. Mrs.Porkodi Karnan appears for the respondents 2 and 3. Mr.B.Vijaykarthikeyan, learned Standing Counsel for the respondents 4 and 5.



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7. Mr.B.Vijaykarthikeyan stated that the respondents 3 to 5 had only issued the consequential proceedings pursuant to the order passed by the first respondent and they did not conduct any enquiry.

8. As the genuineness of the proceedings, which was visited on the petitioner, started with the first respondent, I requested Mr.G.Suryananth to confirm if the first respondent had heard the petitioner prior to passing the impugned order. Accordingly, I adjourned the matter to today, to enable him to get written instructions in this regard. This Court wanted to verify whether an enquiry was conducted with notice to the petitioner, prior to cancellation.

9. Mr.G.Suryananth has produced the entire file relating to the first respondent, which is impugned in this writ petition. The proceeding show that notice was issued by the first respondent to the Executive Engineer, TWAD Board at Nagercoil for an enquiry. The first respondent has also recorded the fact that he has enquired the fifth respondent alone. Notice of enquiry was not marked to the petitioner nor was the petitioner heard before the impugned order came to be passed. In fine, there was a total violation of principles of natural



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justice prior to the passing of the impugned order. Hence, on that ground alone, the impugned order deserves to be set aside and accordingly, it is set aside.

10. In the light of the above discussion, the following order is passed:

"1) The order bearing No.AAS/5466/2017, dated 14.07.2017 is quashed.

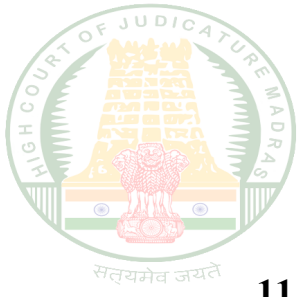
The consequential proceedings issued by the fourth respondent in No.9418/கோ.பதிவு/உஎ/2018, dated 09.04.2018 is also quashed.

2) The proceedings are remitted to the file of the first respondent.

3) The first respondent shall issue notice to the petitioner as well as to such persons to whom, he thinks fit, would throw light on the allegations made against the petitioner.

4) The first respondent shall specifically frame an issue as regards the alleged facts of forgery and after an enquiry, he shall pass appropriate orders.

5) If after the enquiry, the first respondent comes to a conclusion that the certificates produced by the petitioner are results of act of forgery, not only he is entitled to cancel the principal employer license given to the petitioner, but he is entitled to proceed further and initiate criminal proceedings against him for having tampered with Government documents."



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11. This writ petition stands allowed with the above terms. There shall be no order as to costs.

27.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

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V.LAKSHMINARAYANAN, J.

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