



W.P.(MD)No.18204 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2025

CORAM:

THE HON'BLE MS.JUSTICE P.T.ASHA

W.P.(MD).No.18204 of 2021

and

W.M.P(MD)Nos.15039 and 15041 of 2021

PSK Engineering Construction And Co,
A Registered Partnership Firm,
Having its Office At Naducombai Post,
Kalappanaichenpatty (via),
Namakkal-637 404,
Rep. Herein By Its Managing Partner,
Mr.P.Arun Kumar.

... Petitioner

Vs.

1. The Managing Director,
Tirunelveli Smart City Limited,
Tirunelveli City Municipal Corporation,
S.N. High Road,
Tirunelveli-627001.

2. The Chief Executive Officer,
Tirunelveli Smart City Limited,
Tirunelveli City Municipal Corporation,
S.N. High Road,
Tirunelveli-627001.

3. The Executive Engineer,
Tirunelveli Smart City Limited,
Tirunelveli City Municipal Corporation,
S.N. High Road,
Tirunelveli – 627001.

... 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 calling for the records of the 1st Respondent in relation to the impugned Letter bearing No.10/2018-19/SCM dated 04.10.2019, issued by the 1st Respondent to the Petitioner forfeiting the EMD amount of Rs.56,71,000/- (Rupees fifty Six Lakhs Seventy One Thousand Only) and all records consequent there to, and quash the same as being arbitrary and illegal and contrary to the terms and conditions of the Tender document and consequently direct the 1st Respondent to refund all monies paid by the Petitioner, together with interest at the rate of 24 percent per annum from the date of deposit till the date of repayment in full, pursuant to the bid submitted against the Tender bearing Contract No.10/2018/SCM, for Development of Trade Centre with Modern Facilities in Tirunelveli City Municipal Corporation under Tirunelveli Smart City Limited called for by the 1st Respondent and pass such other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.R.Suriya Narayanan

For R1 : Mr.Aayiram K.Selvakumar

For R2 and R3 : No Appearance



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ORDER

This writ petition has been filed challenging the impugned letter dated 04.10.2019 of the 1st respondent forfeiting the EMD amount of Rs. 56,71,000/- and quash the same as it is illegal and contrary to the terms and conditions of the tender document and directing the 1st respondent to refund the same with interest from the date of the deposit till date of the payment.

2. The case of the petitioner is that in January 2019, tender bearing Contract No.10/2018-19//SCN for “Development of Trade Centre with Modern Facilities in Tirunelveli City Municipal Corporation under Tirunelveli Smart City Limited” was called for by the 1st respondent. The petitioner had participated in the tender and placed their bid on 30.01.2019. The petitioner has also submitted an EMD to the tune of Rs.56,71,000/- in compliance with the terms and conditions of the tender. The bid of the petitioner was scrutinized and the same was found to be lowest. The petitioner was called upon by the 1st respondent authorities to negotiate the bid price and ultimately the financial bid of the petitioner



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was reduced to a sum of Rs.50,58,70,283/-. The petitioner was then advised to remit a sum of 2% equivalent to the contract value including the EMD sum already deposited. In compliance thereof, the petitioner has deposited a sum of Rs.44,50,000/-. In all the petitioner deposited a sum of Rs.1,01,21,000/-. The petitioner would submit that having refused the bid and submitted the deposits he was under the genuine impression that he would be issued with a Letter of Award immediately. However, for over six months there was no communication from the respondents and on 09.09.2019, the petitioner was served with a letter dated 30.08.2019 alleging that a letter dated 02.08.2019 had been served on the petitioner calling upon him to execute the agreement.

3. The petitioner would submit that such a letter has not been served on them. Immediately on receipt of the said letter on 09.09.2019, the petitioner had approached the 1st respondent and was informed that the agreement would be executed once the site is made available.



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4. The petitioner genuinely believed the statement that they would be called upon to execute the agreement. However, to their shock they have been served with the impugned letter stating that the tender was unilaterally cancelled and the EMD deposited by the petitioner stood forfeited. Aggrieved by the same, the petitioner is before this Court

5. The counter has been filed by the 3rd respondent denying the allegations contained in the affidavit filed in support of the writ petition and contending that the cancellation of bid and the forfeiture of the EMD and ASD was very much in order.

6. The learned counsel appearing for the petitioner would submit that as per the terms and conditions of the tender document particularly clause no.15, it has been clearly stated that the bid would remain valid for a period of 150 days from the date of the latest date of submission of the bid. This period in the instant case expired on 30.06.2019. As per clause 15.2, if before the expiry of the validity period, if the respondent makes a request in writing for extension, the bid could be extended. However, the



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bidder can refuse the request with forfeiting the bid security where they agree for the extension they may not be required or permitted to modify the bid security. Therefore, it is the contention of the petitioner that the last date for the period was on 30.06.2019 and the letter calling upon the petitioner to execute the agreement has been made on 02.08.2019, much beyond the period of 150 days. The respondents were therefore not justified in forfeiting the EMD and ASD.

7. Mr.Aayiram K.Selvakumar, learned counsel appearing for the 1st respondent would submit that on 02.08.2019, the petitioner was called upon to execute the agreement. He failed to do so and therefore, the respondents were well within the rights to forfeit the EMD and ASD.

8. Heard the learned counsel on either side.

9. Clause 15 of the Contract No.10/2018/SCM, for Development of Trade Centre with Modern Facilities in Tirunelveli City Municipal Corporation under Tirunelveli Smart City Limited would read as follows:-



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15.1 The bid shall remain valid for a period of 150 (One Hundred and Fifty) days after the latest date of submission of bid. A bid valid for a shorter period shall be rejected by the Employer as non-responsive.

15.2 In exceptional circumstances, prior to expiry of original bid validity period, Employer may request that the Bidder extend the period of validity for a specified additional period. The request and the responses thereto shall be made in writing or by cable. A Bidder may refuse the request without forfeiting its bid security. A Bidder agreeing to the request will not be required or permitted to modify its bid security for the period of the extension.

15.3 The contract is not subject to price adjustments and fixed during the period of contract and the contractor shall not be eligible for any additional payment for any extension of Bid Validity if so required by the Corporation.”

10. Reading of the above conditions would make it clear that the validity of a bid is only for a period of 150 days. Beyond the period of 150 days, the 3rd respondent have to make a request in writing to the petitioner to extend the period of validity. Admittedly, such a request has not been made by the respondents. In fact, the letter dated 02.08.2019 under which the respondents claim that they have called upon the petitioner to execute the agreement has not been received by the petitioner. Even assuming that it has been received, it is much beyond the period of 150 days and there is no compliance of condition 15.2.



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11. Therefore, in the light of the above, impugned order is set aside.

Accordingly, the writ petition stands allowed with a direction to the respondents to refund the amounts to the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order.

12. The writ petition stands allowed with the above observations and directions. No costs. Consequently, connected miscellaneous petitions are closed.

19.11.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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To

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P.T.ASHA, J.

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