



W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 31.01.2025

PRONOUNCED ON : .2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

and

**W.M.P.(MD)Nos.16241,16550, 16551, 16556, 16558, 16559, 16562,
19149, 14936, 17309, 19724 of 2023**

W.P.(MD)No.19664 of 2023

K.Manikandan

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

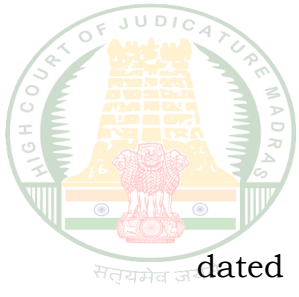
2.The Executive Officer,
Kadaya I Grade Town Panchayath,
Kanyakumari District.

3.P.Jayasingh

... Respondents

*(R-3 is impleaded vide Court order dated 05.09.2023 in
W.M.P.(MD)No.16584 of 2023 in W.P.(MD)No.19664 of
2023)*

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 relating to the proceedings in Na.Ka.No.15/2023/A1



W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

dated 10.07.2023 on the file of the 2nd respondent's tender process and quash the same as illegal, without jurisdiction and violation of the provisions of the Tamil Nadu Tender Transparency Act, 1998, and consequently directing the 2nd respondent to call for fresh tender for the work namely SFC 2022-2023 improvements and providing interlocking road from Maruthemperumal to Ganapathikal Road connecting Arukani – Kaliyal Road in Kadayal Town Panchayat.

(Prayer amended vide Court order dated 05.09.2023 in W.M.P.(MD)No. 17836/2023 in W.P.(MD)No.19664/2023)

For Petitioner	: Mr.T.Lajapathi Roy, Senior counsel, Mr.C.Bharathi
For R-1 & R-2	: Mr.P.Veerakathiravan, Additional Advocate General, Assisted by, Mr.S.Kameswaran, Government Advocate
For R-3	: Mr.Puhazh Gandhi

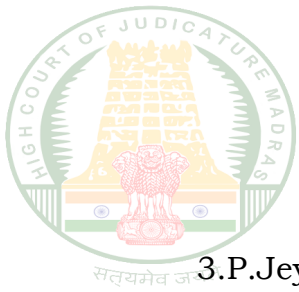
W.P.(MD)No.20084 of 2023

K.Manikandan

... Petitioner

Vs.

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Executive Officer,
Kaliyakkavilai Town Panchayath,
Kanyakumari District.



W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

3.P.Jeyakumar

... Respondents

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(R-3 is impleaded vide Court order dated 05.09.2023 in W.M.P.(MD)No.17900 of 2023 in W.P.(MD)No.20084 of 2023)

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 relating to the proceedings in Na.Ka.No. 271/2023/A1 dated 05.07.2023 on the file of the 2nd respondent's tender process and quash the same as illegal, without jurisdiction and violation of the provisions of the Tamil Nadu Tender Transparency Act, 1998 and consequently directing the 2nd respondent to call for fresh tender for the work namely setting up the Thoppuvilai-Eruththavur Road, Nambikai Aalayam-Edaivilagam Road, Mudhuvallikulam-Pilamannaraivilai Road Interlock paver block.

For Petitioner : Mr.T.Lajapathi Roy,
Senior counsel,
Mr.C.Bharathi

For R-1 & R-2 : Mr.P.Veerakathiravan,
Additional Advocate General,
Assisted by,
Mr.S.Kameswaran,
Government Advocate

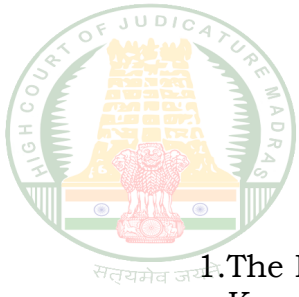
For R-3 : Mr.Puhazh Gandhi

W.P.(MD)No.20085 of 2023

K.Manikandan

... Petitioner

Vs.



W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Executive Officer,
Edaicode I Grade Town Panchayath,
Kanyakumari District.

3.P.Jeyasingh

... Respondents

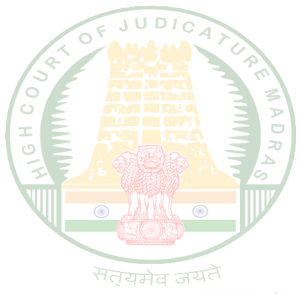
(R-3 is impleaded vide Court order dated 05.09.2023 in W.M.P.(MD)No. 17896 of 2023 in W.P.(MD)No.20085 of 2023)

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 relating to the proceedings in Na.Ka.No. 253/2023/A1 dated 14.07.2023 on the file of the 2nd respondent's tender process and quash the same as illegal, without jurisdiction and violation of the provisions of the Tamil Nadu Tender Transparency Act, 1998, and consequently directing the 2nd respondent to call for fresh tender for the work namely setting up the Edaicode Town Panchayat Odal vilai to Thiruthikonam Road, Thiruthikonam to Ampetrinkalai road, Thiruthikonam Sasthankovil Road, Interlock paver block.

For Petitioner : Mr.T.Lajapathi Roy,
Senior counsel,
Mr.C.Bharathi

For R-1 & R-2 : Mr.P.Veerakathiravan,
Additional Advocate General,
Assisted by,
Mr.S.Kameswaran,
Government Advocate

For R-3 : Mr.Puhazh Gandhi



W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

W.P.(MD)No.20086 of 2023

K.Manikandan

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Executive Officer,
Pacode I Grade Town Panchayath,
Kanyakumari District.

... Respondents

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 relating to the proceedings in Na.Ka.No. 166/2023/A1 dated 18.07.2023 on the file of the 2nd respondent's tender process and quash the same as illegal, without jurisdiction and violation of the provisions of the Tamil Nadu Tender Transparency Act, 1998, and consequently directing the 2nd respondent to call for fresh tender for the work namely setting up the Kuzhivilai Melandukodu Kattukulam Salai, Parayan Vilai Thala Veettu Vilai Salai, Kuzhiyalvilai Tharaisu Vilai Salai, Kuppottukulam Ooralivilai Salai, Thengangudal Vilai, Mathiravilagam Salai, Kavankulam Kovil Vattam Salai and Sivankovil Mattrathu Vilai Salai providing Cement Stone.

For Petitioner : Mr.T.Lajapathi Roy,
Senior counsel,
Mr.C.Bharathi

For R-1 & R-2 : Mr.P.Veerakathiravan,
Additional Advocate General,



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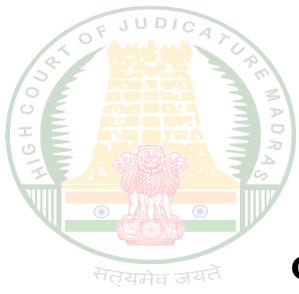
W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

Assisted by,
Mr.S.Kameswaran,
Government Advocate

ORDER

These writ petitions are filed by the same writ petitioner seeking to quash the proceedings in Na.Ka.No. 15 / 23 / A1 dated 10.07.2023 on the file of the second respondent's tender process, the proceedings in Na.Ka.No. 271/2023/A1 dated 09.08.2023 on the file of the second respondent's tender process, proceedings in Na.Ka.No.253/2023/A1 dated 14.07.2023 on the file of the second respondent's tender process and the proceedings in Na.Ka.No.166/2023/A1 dated 18.07.2023 on the file of the second respondent's tender process as illegal and to call for fresh tenders in each of those cases respectively.

2. The Executive Officer of Kadayal Grade I Town Panchayat, Kanyakumari District, the Executive Officer Kaliyakavallai Grade I Town Panchayat, Kanyakumari District, the Executive Officer Edaicode Town Panchayat, Kanyakumari District, and the Executive Officer Pacode I Grade Town Panchayat, Kanyakumari District, are the second respondents in the respective writ petitions herein. One P.Jayasingh is the third respondent in W.P.(MD)No.19664 of 2023 and 20084 of 2023.



W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

Case of the writ petitioner:

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2. W.P.(MD)No.19664 of 2023:

The second respondent vide proceedings in Na.Ka.No.15/2023/A1 dated 10.07.2023 floated online tenders with respect to the State Fund (Urban Roads Development Scheme) to Road Improvement Scheme 2022-2023. The said two cover system online tender floated by the second respondent was with respect to the work namely-SFC 2022-2023 improvements and providing interlocking roads from Maruthemperumal to Ganapathikal road connecting Arukani-Kaliyal road in Kadayal town panchayat. The last date for submission of bid document including online submission was fixed as on 27.07.2023 at 3 P.M. and the time of opening of technical bid was fixed as 27.07.2023 at 3.30 P.M.

3. W.P.(MD)No.20084 of 2023:

The second respondent vide proceedings in Na.Ka.No. 271/2023/A1 dated 05.07.2023 floated online tenders with respect to the Kalayangar Urban Development Scheme (KNMT scheme) 2023-2024. Pursuant to the same, the second respondent floated two cover system online tenders with respect to the work namely: setting up the Thoppuvilai - Eruththavur road, Nambikkai Aalayam - Edaivilagam road, Mudhuvallikulam - Pilamannaraivilai road Interlock paver block



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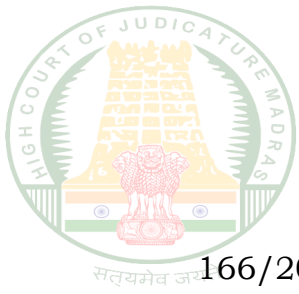
to an estimated value of worth of Rs.110 lakhs. The last date for submission of bid document including online submission was fixed as on 03.08.2023 up to 3 P.M. and the time of opening of technical bid was fixed as 03.08.2023 at 3.30 P.M. and the time of opening of price bid was fixed as 07.08.2023.

4. W.P.(MD)No.20085 of 2023:

The second respondent vide proceedings in Na.Ka.No. 253/2023/A1 dated 14.07.2023 floated online tenders with respect to the State Finance Commission (Urban Roads Development Fund) Scheme 2022-2023. Pursuant to the same, the second respondent floated two cover system online tenders with respect to the works namely: setting up the Edaicode town panchayat Odal Vilai to Tiruthikonam road, Tiruthikonam to Ampetrinkalai road, Tiruthikonam Shastankovil road Interlock paver block and the estimated value of the work being Rs.191.01 Lakhs for the work completion duration being 6 months. The last date for submission of bid document including online submission was fixed as on 04.08.2023 at 3 P.M. and the time of opening of technical bid was fixed as 04.08.2023 at 3.30 P.M.

5. W.P.(MD)No.20086 of 2023:

The second respondent vide proceedings in Na.Ka.No.



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166/2023/A1 dated 18.07.2023 floated online tenders with respect to

Kalayangar Urban Development Scheme (KNMT scheme) 2023-2024.

Pursuant to the same, the second respondent floated two cover system online tenders with respect to the works namely: setting up the Kuzhivilai Melandukodu Kattukulam salai, Parayan Vilai Nadu Thalaveetu Vilai Salai, Kuzhiyalvilai Tharisu Vilai Salai, Kuppottukulam Ooralivilai Salai, Thengankudal Vilai, Mathiravilagam Salai, Kavankulam Kovil Vattam Salai and Sivankovil Mattrathu Vilai Salai providing cement stone to an estimated value of work Rs.106.00 Lakhs. The last date for submission of bid document including online submission was fixed as on 04.08.2023 up to 3 P.M. and time of opening of technical bid was fixed as 04.08.2023 at 3.30 P.M. and time of opening of price bid was fixed as 07.08.2023.

6. The petitioner being a registered State Level Class I Contractor is eligible to participate in all the aforesaid tenders. Accordingly, he made the tender documents for work as per the notifications in two covers ready and submitted through online on 26.07.2023, 02.08.2023, 02.08.2023 and 03.08.2023 respectively. The writ petitioner claimed that the second respondent in all the cases willfully did not open the technical bid as well as the price bid on the date prescribed in the tender notification. After the repeated requests of the tenderers, the



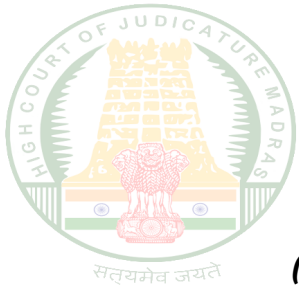
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second respondent opened the technical bid on 09.08.2023, 12.08.2023, 11.08.2023 and 14.08.2023 respectively in each of the above cases. The date of opening of the technical bid was not in tune to the time of opening of technical bid as fixed in the tender documents.

7. Claiming the action of the second respondent as *per se* arbitrary and pointing out that the second respondent is duty bound to upload the evaluation of the technical bids in the online portal and suspecting that the second respondent had planned to open the price bid at any point of time to exercise favour to persons of his choice, these writ petitions came to be filed.

8. Heard the learned senior counsel Mr. Lajapati Roy for the petitioner's counsel Mr.C.Bharathi, the learned Additional Advocate General Mr.P.Veerakathiravan for the respondents 1 and 2 for the respective Government Advocates and Mr. Pughal Gandhi for the third respondent and carefully perused the materials available on record.

9. The respective counsels elaborately reiterated the grounds raised by each of them in their respective affidavit/counter affidavits. The reply of the second respondent in each of the writ petitions is summarized as follows:

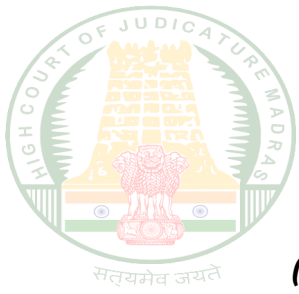


W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

(i) W.P.(MD)No.19664 of 2023:

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Tenders were invited through online mode till 27.07.2023 by the Kadayal Grade I Town Panchayat, Kanyakumari District, vide Na.Ka.No. 15/2023/A1 dated 10.07.2023. In response to the same, three tenders were received from the writ petitioner, MJD construction, and one P.Jayasingh. The technical bid was opened and examined by the panel consisting of the Assistant Executive Engineer, Junior Engineer, and the Executive Officer of the Kadayal Grade I Town Panchayat on 27.07.2023. As per the tender notification, special condition No.5, price bid related to the tender which are eligible for the technical bid was only opened. As per the checklist for submission of bid among the three tenderers, the tender of one P.Jayasingh, was alone eligible in the technical bid. The petitioner's tender was not eligible in the technical bid for the reasons of non-compliance of clause in serial No.4, 5 and 11 of the tender document. The MJD construction's tender was not eligible in the technical bid, for the reasons of non-compliance of clause in serial No.4 and 5 of the tender document. The tender price bid of Thiru.P.Jayasingh, was opened on 09.08.2023 at 4.10 P.M. and the work would be allotted to him by resolution to be made in the forthcoming board meeting.



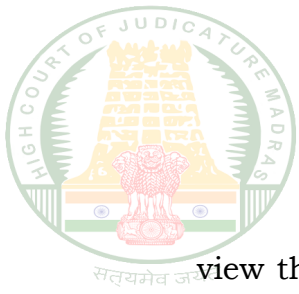
W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

(ii) W.P.(MD)No.20084 of 2023:

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(i)Two cover online tenders were invited by the Kaliyakkavalai town panchayat with respect to a package for providing interlocking paver block road vide proceedings in Na.Ka.No.271/2023/A1 dated 05.07.2023. The tender document was available online and offline with effect from 13.07.2023 up to 3 P.M. on 03.08.2023. The date of pre-bid meeting was fixed as 21.07.2023. The last date for downloading tender documents was on 03.08.2023 at 3 P.M. and the last date and time for submission of tender was fixed at 3 P.M. on 03.08.2023. The date and time of opening of technical bid was fixed as 03.08.2023 at 3.30 P.M., Evaluation of technical bid was fixed as 04.08.2023 and opening of price bid was fixed as 07.08.2023. Pre-bid meeting was convened on 21.07.2023 at 11 A.M. in terms of the tender document. Had the petitioner attended the same, he could have availed the facility under the provision of Rule 17(2) of the Tamil Nadu Transparency in Tender Rules, 2000, and sought for clarification.

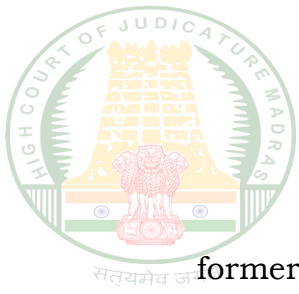
(ii)As scheduled, the technical bid was opened at 3.30 P.M. on 03.08.2023. In view of the fact that the entire tender process was done only by way of online mode, the date of opening of technical bid was already informed to the tenderers through tender document and the petitioner ought to have been present online at the scheduled time to



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view the proceedings online. Unlike the earlier offline tenders where the tenderers have to be informed about every move as per the Tamil Nadu Tender Transparency Rules, 2000, in the current e-procurement mode which is in vogue, the relevant details relating to the tenders would be informed to the tenderers automatically through automated messages in their registered mobile numbers and if the petitioner is ill-equipped to peruse the same, the respondents could not be faulted with.

(iii)A total number of 4 bids were received by the second respondent panchayat from Thiru. Jeyakumar, Thiru. Jeyaraj, the writ petitioner Mr.Manikandan, and M/s. MJD constructions. The bids offered by Thiru. Jeyakumar and Thiru. Jeyaraj were accepted and the bids offered by the writ petitioner and M/s.MJD constructions were rejected and the same was promptly and duly communicated via e-mail. The said rejection was uploaded in the website on August 17, 2023, at 3.41 P.M. The reason for the rejection of the petitioner's bid is due to his non-submission of certain requirements as mandated in the tender document which is elaborated in the counter affidavit of the second respondent. More particularly, the genuineness of the experience certificate provided by the Executive Officer, Kadayal town panchayat was already called for vide Roc.No. 353/2023/A1 dated 12.04.2023 and it was also informed that the certificate was wrongly provided by the



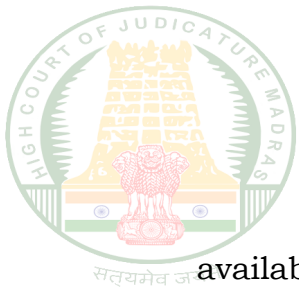
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former Executive Officer and hence the experience certificate issued in favour of the petitioner in Roc.No.11/2020/A1 dated 12.01.2023 was withdrawn by the Executive Officer, Kadayal Town Panchayat, since the petitioner did not complete the work pertaining to the road improvement relating to Fathima Salai to Kulikalavilai Salai.

(iv)The price bid was opened online on 17.08.2023 at 16:52 hours and the price bid of Rs.91.24 lakhs was offered by one Thiru.Jeyakumar was accepted and free acceptance was given by the Chairman, Kulikalavilai town panchayat, dated 17.08.2023, and work order was also issued to him vide proceedings of the second respondent in Pro.Roc.No.271/2023/A1 dated 17.08.2023 and the said Jeyakumar, that is, the third respondent has commenced the work since the time of completion of work is only two months, that is, before the north east monsoon.

(iii) W.P.(MD)No.20085 of 2023:

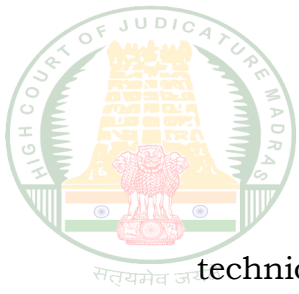
(i)E-tender was floated and bids were invited to package under two cover system for providing interlocking paver block road Odalvilai to Tiruthikonam road, Tiruthikonam to Ampetrinkalai road, Tiruthikonam Sasthankovil road in Edaikode town panchayat at an estimated cost of Rs.191.01 lakhs. The date from which the tender document was



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available from 14.07.2023 up to 3 P.M. on 04.08.2023. The date of pre-bid meeting was on 03.08.2023 and the last date for downloading the tender documents was fixed as 04.08.2023 till 3 P.M. and the last date and time for submission of tender was fixed as 3 P.M. 04.08.2023. The date and time of opening the technical bid was 04.08.2023 at 3.30 P.M. The pre-bid meeting was convened on 03.08.2023 at 11 A.M. Had the petitioner attended the same, he could have availed the benefits provided under Rule 17(2) of the Tamil Nadu Transparency in Tender Rules, 2000, and sought for clarification.

(ii)As scheduled, the technical bid was opened at 3.30 P.M. on 04.08.2023. Since the entire tender process was done only in the online mode, the date of opening of technical bid was already informed to the tenderers through tender document and the petitioner ought to have been present online at the scheduled time to view the proceedings. The total number of bids received was 3 and the bidders were the writ petitioner, one Thiru.P.Jayasingh, and MJD Constructions Engineering Contractors private limited. The technical bids submitted by them were scrutinized on 07.08.2023, approval accorded by the tender inviting authority as well as the Junior Engineer on 07.08.2023 and was sent to the Assistant Executive Engineer Nagercoil Zone to further scrutinize the checklist and approve the evaluation made with regard to the



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technical bids as per the tender documents and returned the same on 08.08.2023 at 3.45 P.M.

(iii)The technical bids submitted by Thiru G. Jayaraj, MJD Construction and Engineering Contractors private limited, and Thiru.Manikandan, that is, the petitioner were rejected and the rejection was informed by an automated SMS in the registered mobile numbers of the respective stakeholders on 08.08.2023 and the same was also uploaded in the website on 8th August 2023 itself. The price bid was finally opened through online on 10.08.2023 at 11.35 A.M. and the price bid of Rs.191.00 Lakhs offered by Mr.P.Jayasingh was accepted. Pre-acceptance was given by the Chairman, Edaicode town panchayat, and work order was issued to him vide proceedings of the second respondent in Pro.Roc.No.253/2023/A1 dated 12.08.2023 and he had commenced the work since the time limit for completing the work was only 6 months.

(iv) W.P.(MD)No.20086 of 2023:

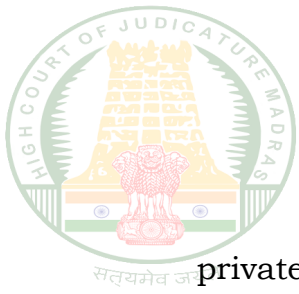
(i)The Pacode panchayat called for e-tenders to a package of work for providing paver block at Kuzhlivillai, Melanducode-Kattukulam road; Parayanvillai to Naduthaveetuvillai road; Kulianvillai to Tharisuvillai road; Kuppittukulam to Ooralivillai; Thenkankoodalivillai to



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Mathiravillagam road; Kavinkulam to Kovilvattom and Sivankovil to Mattuthuvillai for laying of cement slabs at an estimated cost of Rs.106 lakhs under KNMT scheme for the year 2023-2024. The date which the tender document was available from 19.07.2023 up to 3 P.M. on 04.08.2023 and the last date for downloading tender documents was on 04.08.2023 at 3 P.M. The date of pre-bid meeting was fixed as 25.07.2023. The last date and time for submission of tender was at 3 P.M. on 04.08.2023. The date and time of opening of technical bid was fixed at 3.30 P.M. on 04.08.2023.

(ii)Pre-bid meeting was convened on 25.07.2023 at 11 A.M. and the petitioner did not attend the same. As scheduled, the technical bid was opened at 3.30 P.M. on 04.08.2023. A total number of four bids were received from one P.Jayakumar, Thiru.G.Jayaraj, MJD Constructions and Engineering Contractors Private Limited, and the writ petitioner, that is, one Manikandan. The technical bids submitted by them were scrutinized on 07.08.2023, approval accorded by the tender inviting authority as well as the Junior Engineer and sent to the Assistant Executive Engineer Nagercoil Zone who scrutinized the checklist and approved the evaluation made with regard to the technical bids as per the tender documents. The technical bid submitted by Thiru.G.Jayaraj, MJD Construction and Engineering Contractors

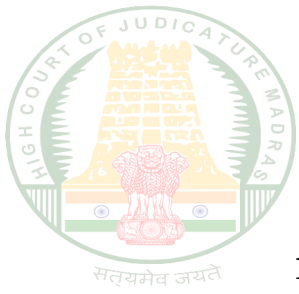


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private limited, and Thiru.Manikandan, that is, the petitioner herein were rejected and the same was informed through automatic e-mail since the entire process was done online.

(iii)The said rejection was also uploaded in the website on 17.08.2023 at 3.41 P.M. The price bid was opened through online on 17.08.2023 at 3.45 P.M. and the price bid of Rs.106 Lakhs offered by one Jeyakumar was accepted and pre-acceptance was given by the Chairman Pacode Town Panchayat Council, and work order was also issued to him vide proceedings in Pro.Roc.No.166/2023/A1 dated 17.08.2023 and he has commenced the work since the time limit for completing the same is only three months.

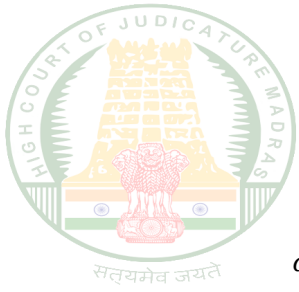
10. In all the 3 cases in W.P.(MD)No.20084, 20085 and 20086 of 2023, the rejection of the petitioner's technical bid was for the reason that the experience certificate provided by the Executive Officer Kadayal Town Panchayat, in favour of the petitioner vide Roc.No.11/2020/A1 dated 12.01.2023, was withdrawn by the Executive Officer, Kadayal Town Panchayat, since the petitioner did not complete the work pertaining to the road improvement relating to Fathima Salai to Kulikalavilai Salai.



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11. In an interesting twist at the time of arguments, the learned counsel appearing for the third respondent, Mr. Pughal Gandhi placed before me the order passed by this Court in **W.P.(MD)No.2166 of 2023, dated 23.03.2023**, in which the writ petitioner herein had been the writ petitioner and this Court has dealt with a similar matter of tender pertaining to Kuzhlithurai Municipality. A careful reading of the order passed by this Court in the aforesaid writ petition, and the details placed before me in these writ petitions would substantiate the strong fact that the petitioner is a Court-bird by his inherent nature. In a twist of events, this Court has dealt with the case of the writ petitioner herein in **W.P.(MD)No.2166 of 2023**, and proceeded to dismiss the writ petition for a significant reason and the relevant portion of the same is extracted as follows:

“3. The writ petitioner is a registered State Level Class-I Contractor. He claims that he had participated in the aforementioned three tenders. The last date was originally fixed on 20.01.2023 at 03.00 p.m. and the time for opening of technical bid was fixed as 20.01.2023 at 3.30 p.m. The petitioner had submitted all the required documents. It is complained by the petitioner that the second respondent had refused to accept the tender stating that the tender should be submitted only through online. Applications submitted offline should not be accepted. The documents submitted by the petitioner through offline were rejected. Thereafter, the date was refixed as 31.01.2023. The petitioner had submitted his



W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

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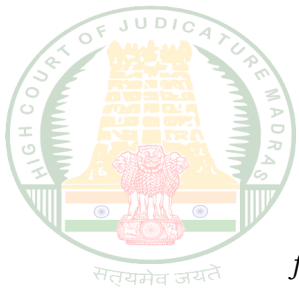
documents through online for works No.1 and 2. He had also submitted the documents through offline in the office of the second respondent, before 31.01.2023. This was in compliance with the condition No.33(10) of the tender rules.

4.The petitioner had stated in the affidavit that the other contractors, who had submitted their tender through online, had not submitted their documents through offline. It was also stated that the second respondent, without hearing the objection raised by the petitioner herein permitted everybody who had submitted documents offline before 31.01.2023 to upload the documents through online. This was an objection raised by the petitioner.

5.It is claimed that the second respondent has the favour of some specific individual. It is therefore claimed that the entire tender process should be interfered with by this Court.

6.It is stated by the learned Additional Advocate General that documents were verified and on that date the successful bidder, so far as for work No.1 was granted the work. So far as, work Nos.2 and 3 are concerned, the successful bidder was one M.J.D.Constructions. It is stated that said M.J.D.Constructions is primarily run by Devadas Janaka Jebangelin, who is none other than the wife of the petitioner.

7.If the petitioner alleges that the second respondent has the



W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

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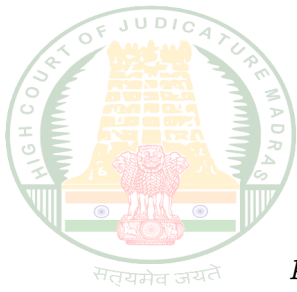
favour of some specific individual, the petitioner should suffer an order directing withdrawal of the contract granted to M.J.D.Constructions run by his wife. But the learned counsel for the petitioner did not expand his arguments to that extent. He has grievance only against those who had uploaded the documents through online, after they had been submitted through offline. It is the specific contention that the documents must be first uploaded through online by the individual contractor and then also submitted through offline.

8.The fact remains that certainly both the petitioner and his wife would have been aware of the bid amount quoted by each other and aware that either one of them would be selected as the successful bidder. This is very dangerous.

9. I would like to leave this issue to the second respondent to take a decision in accordance with rules and regulations.

10.The learned counsel for the petitioner has relied on the procedure as stated in Clause 33(10). It reads as follows:

The details of the bid security document should be submitted physically before the opening the tender. The scanned copies furnished at time of e-submission and the original bid security should be the same otherwise the tender will be summarily rejected. Any tender must be conducted only through online. Those who want to participate should submit the documents through online. Therefore, this clause would not come to rescue of the



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petitioner herein.

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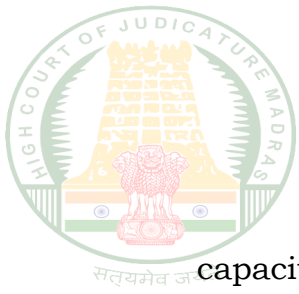
11.In view of the above facts, the status-quo granted by this Court on 07.02.2023, is vacated.

12.It is pertinent to note that both husband and wife had participated in the tender. The husband alone has filed the writ petition seeking stay of grant of tender, wherein, his wife was the successful bidder.

13. I would still reiterate the fact that the respondents should ensure that both spouses should never participate in a tender. If done so, then the respondents can always interfere with both the tenders. In this case, though it had already been declared that M.J.D.Constructions is the successful bidder, the respondents may any take appropriate action, in accordance with rules and regulations.

14.In view of the above facts, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.”

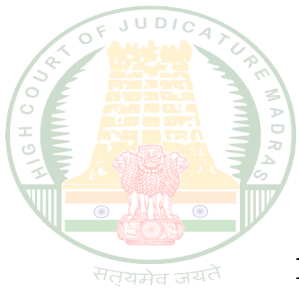
12. From the extracted portion of the order passed by this Court in W.P.(MD)No.2166 of 2023, it would transpire that in the tender pertaining to the aforesaid writ petition, the petitioner in his individual



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capacity and his wife, Mrs.Devadas Janaga Jebangalin, W/o.K. Manikandan in the name of MJD Construction and Engineering Contractors Private Limited have participated as bidders in the aforesaid tender process. Having recorded the same, this Court went to the extent of observing that being husband and wife, the petitioner and his wife obviously would have been aware of the bid amount quoted by each other, thereby posing a dangerous setback to the transparency of the tender process itself.

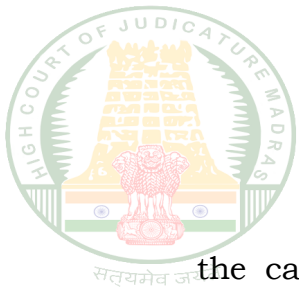
13. Having recorded the same, this Court further proceeded to reiterate that the respondents should ensure that both spouses should never participate in a tender and if done so, then the respondents can always interfere with both the tenders. Though in the instant writ petitions, which is placed before me for adjudication, the offers made by the writ petitioner in his bid has been rejected by the tender committee on the ground of non-compliance of certain tender conditions by thoroughly analysing and scrutinising each of the condition mentioned in the tender document by holding the offer made by the writ petitioner as non-complaint, being a participant in the tender process, the writ petitioner has challenged the same pertaining to various Town Panchayats in all these four writ petitions.



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14. The arguments of the learned Additional Advocate General on the basis of the counter affidavits filed by the second respondents respectively would transpire that in each and every tender process pertaining to each and every writ petitions before me, the number of participants were three to four tenderers of whom one had been the writ petitioner and another had been one MJD Constructions and Engineering Contractors Private Limited. The memorandum of association of MJD Constructions and Engineering Contractors Private Limited, has been placed before me by the paper book submitted by the third respondent, and a careful perusal of the same would reveal the fact that, of the total 10,000 equity shares of the aforesaid MJD Constructions and Engineering Contractors Private Limited, the writ petitioner, namely, K. Manikandan possess 5,000 equity shares and his wife, Mrs. D. Janaka Jebangalin, possess 5,000 equity shares making them equal partners in the aforesaid company.

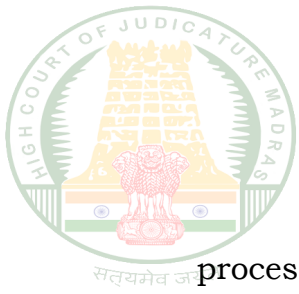
15. Suppressing the possession of 5,000 equity shares of the aforesaid company, the writ petitioner has allowed the aforesaid MJD company to participate in all these tender processes in the name of his wife representing the said company. When it is pretty clear that it is the order of this Court in W.P.(MD)No.2166 of 2023 dated 23.03.2023 more specifically pertaining to the case of the writ petitioner and his wife in



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the capacity of the proprietor of MJD Construction and Engineering Contracts Private Limited, had prohibited the writ petitioner and his wife to participate in a tender at the same time by submitting separate tender bids, with a specific direction in such case, the official respondents can always interfere with such tenders, negating the order of this Court in the aforesaid writ petition, the writ petitioner and his wife representing the aforesaid MJD Construction Company had submitted separate tender bids in each of the tender processes which has been challenged in all these writ petitions.

16. Though the tender bids offered by the petitioner as well as his wife were rejected for obvious reasons, I am of the considered view that in terms of the order passed by this Court in W.P.(MD)No.2166 of 2023 dated 23.03.2023, the respondent authorities ought to have rejected their tender bids outrightly at the threshold in line with the order passed by this Court in the aforesaid writ petition. The soul and substance of the Tamil Nadu Transparency of Tender Act, 1998, itself is to ensure fair and competitive bidding. The concept of permitting a single tenderer to submit one bid in a tender process and prohibiting proxy participation itself is to avert manipulation of the entire tender process by submitting multiple bids under different names thereby influencing the outcome and undermining the fairness of the tender



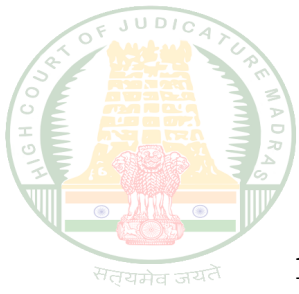
W.P.(MD)Nos.19664 and 20084 to 20086 of 2023

process.

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17. However, in the instant case, having allowed the petitioner as well as the construction company in which the petitioner as well as his wife, Mrs. D.Janaka Jebangalin, are equal equity shareholders, the respondents have failed in ensuring a level playing field preventing potential manipulation of the bidding process. In line with the order passed by this Court in W.P.(MD)No.2166 of 2023 dated 23.03.2023, I hereby reiterate the order of this Court again by directing the respondents to prevent the writ petitioner as well as his wife in the name of MJD Construction and Engineering Contractors Private Limited in participating in the same tender process in future.

18. In W.P.No.20549 of 2014 in the case of S.Karthik vs. State of Tamil Nadu, this Court has observed that, “It is well settled that tender conditions are prescribed according to the market conditions and that the participants in a tender cannot challenge the tender conditions, unless the tender conditions are specifically tailored to suit a chosen individual or to exclude a particular individual. In the absence of a malafide exercise of power in fixing the tender conditions, the conditions by themselves are not amenable to challenge.”



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19. The said dictum was reiterated in **W.P.No.37884 of 2004** in which this Court has held that, “the petitioner by accepting the tender conditions and having participated in the process by submitting tender documents within the time frame without raising any objection, he cannot thereafter turn around and challenge the same which is impermissible in law.”

20. Fully fortified by the aforesaid judgments even in this case, the petitioner having failed to successfully get through the tender selection process, I do not find any malafide exercise of power in fixing the tender conditions and awarding the work order to the respective successful bidders. That apart, for the reasons reiterated by this Court in W.P.(MD)No.2166 of 2023 dated 23.03.2023 itself, the writ petitioners ought to have been thrown out at the threshold. Accordingly, the writ petitions in W.P.(MD)Nos.19664, 20084 to 20086 of 2023 fail and all the four petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

28.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Executive Officer,
Kadayal I Grade Town Panchayath,
Kanyakumari District.
- 3.The Executive Officer,
Kaliyakkavilai Town Panchayath,
Kanyakumari District.
- 4.The Executive Officer,
Edaicode I Grade Town Panchayath,
Kanyakumari District.
- 5.The Executive Officer,
Pacode I Grade Town Panchayath,
Kanyakumari District.



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L.VICTORIA GOWRI, J.,

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28.04.2025