



W.A.(MD)No.3028 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.11.2025**

CORAM:

THE HONOURABLE **Dr.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

W.A.(MD)No.3028 of 2025 &
C.M.P.(MD)No.17266 of 2025

SS and Co.,
Represented by its Managing Partner
Mr.B.Subramanian
No.28/6, Chithambaranathapuram 1st Street,
Devakottai
Sivagangai District.

...Appellant

/Vs./

1. The State of Tamil Nadu
Represented by the Superintending Engineer (H),
Highways Department,
Construction and Maintenance,
Madurai Circle, Madurai - 2.

2. The Divisional Engineer (H)
Highways Department,
Construction and Maintenance,
Sivagangai.



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3. The Divisional Engineer (H)
Highways Department,
Construction and Maintenance,
Ramanathapuram.

... Respondents

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent to set aside the order dated 07.10.2025 in W.P.(MD)No.26015 of 2025 and allow the writ appeal.

For Appellant : Mr.H.Lakshmi Sankar
for Mr.A.Mohan

For Respondents : Mr.Veerakathiravan
Additional Advocate General
Assisted by
Mr.S.P.Maharajan,
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by **Dr.ANITA SUMANTH, J.**)

The writ petition encompasses three scopes of work as set out in Tender Notice No.25/2025-26/HDO, dated 23.08.2025 (Tender Notice).

2. The scope of work reads as follows:



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Sl. No.	Name of Work	Approximate Value of work Including GST (Rs.in Lakhs)	Bid Security (In Rupees)	Concerned Division	Period of completion
1	2	3	4	5	6
<i>Comprehensive Road Infrastructure Development Programme 2025-26</i>					
1	<i>Widening from Two Lane to Four Lane and Strengthening at Km.71/2 - 73/2 of Ramanathapuram - Nainarkoil-Andakudi - Elayankudi -Sivagangai - Melur Road (SH34) Including Reconstruction of Culverts at Km.71/2, 71/8, 72/6 72/8.</i>	1200.90	Rs. 6,13,000/-	Divisional Engineer (H) C & M, Sivagangai	8 Months
2	<i>Widening from Two Lane to Four Lane and Strengthening at km 7/0-9/8 of Ramanathapuram - Nainarkoil-Andakudi - Elayankudi Sivagangai-Melur road including CD Works, Centre Median and Junction improvement.</i>	1632.15	Rs. 8,28,000/-	Divisional Engineer (H) C & M, Ramanathapuram	10 Months
3	<i>Widening from Single lane to Two Lane and Strengthening at Km 0/0-8/0 of Melakidaram - M.Krishnapuran Road including CD Works and Construction Protective wall.</i>	1329.35	Rs. 6,77,000/-	Divisional Engineer (H) C & M, Ramanathapuram	8 Months

3. The prayer of the petitioner was for a mandamus directing the Divisional Engineers (H) of the Highways Department in Sivagangai and Ramanathapuram / R2 and R3 to issue a 'Work Site Inspection Certificate' and 'Working Condition of the Plant and Machineries Certificate', thereby enabling the petitioner to participate in the tender.

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4. The critical position as recorded by the learned Judge while dismissing the writ petition was that even as on the date the writ petition was instituted, that is, on 17.09.2025, the appellant / petitioner did not possess one of the machineries that was required and hence, the authorities could not have issued the Certificate as sought for by the appellant / petitioner. This is an admitted fact.

5. The specific argument of the appellant before us is that the Pre-Qualification Document, particularly, Clause 2.5, which defines '*Equipment Capabilities*', requires the applicant to own, or have assured ownership, to the items of equipment (Annexure-1) in full working order and they should be able to demonstrate that based on known commitment, they will be available for use in the proposed contract.

6. Hence, Mr.H.Lakshmi Sankar, learned counsel for Mr.A.Mohan, learned counsel for the appellant, would argue that physical possession at the time of inspection, is not required and assured ownership is more than sufficient.



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7. According to him, the machineries had been purchased on 11.09.2025 and as on the date of inspection, which was on 23.09.2025, the machineries were on-road. In fact, the appellant was in possession of the machineries at the time when the bid was submitted, on 30.09.2025, and hence, there has been substantial compliance that should be given due credence.

8. Moreover, there has been a second inspection by the authorities on 29.09.2025 when they have confirmed the possession of the machineries by the appellant. By an interim order dated 26.09.2025, the learned Judge records the request of the petitioner for a second inspection and the strong opposition by the respondents for conduct of second inspection. No direction was issued to conduct the inspection, despite which, they have gone ahead to oblige.

9. This in our considered view will not support the case of the appellant. We are of the view that the timelines set out under the tender notice are sacrosanct, and expected to be adhered to scrupulously.

10. Clause 9 of the Tender Notice reads as follows:

The Tenderer should submit the application to the Divisional Engineer (H), C&M concerned on or before



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15.09.2025 upto 17.45 Hrs for issuance of Work Site Inspection Certificate and Working Condition of the Plants & Machineries Certificate and the last date for receipt of the said certificates from the Divisional Engineer (H), C&M, concerned on or before 26.09.2025 upto 17.45 Hrs. Any application for the Work Site Inspection Certificate and Working Condition of the Plants & Machineries Certificate received after 15.09.2025 at 17:45 Hrs will not be accepted.

11. Hence, the tenderer is expected to submit its application to the Divisional Engineer seeking inspection, and this application ought to be submitted on or before 15.09.2025, up to 17.45 hours. Clause 9 further states that the last date for receipt of the Certificates was 26.09.2025 up to 17.45 hours.

12. The appellant has made an application on 15.09.2025. However, and admittedly, as on the date when the application was made, he was not in physical possession of the machineries at all. In our view, this is an incongruous situation.

13. Our reading of Clause 9 is that the tenderer should be in complete readiness, with all equipments as on date of his submission of the application to the Divisional Engineer seeking inspection. This has not transpired in this case and the application seeking inspection is,



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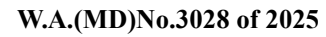
really meaningless.

14. The period between 15.09.2025 and 26.09.2025, up to 05.45 p.m., is available to the authorities to inspect the machineries. The appellant certainly cannot insist that the inspection should be only on the last date in anticipation of the delivery of the equipment. This is neither practical nor is it an appropriate interpretation of Clause 9.

15. In light of the admitted position that the appellant was not in physical possession of the machineries, as on the date of submission of the application for inspection of the machinery on 15.09.2025, the mere fact that they had purchased the machineries will not suffice to entitle them to participate in the tender.

16. We see no apparent contradiction between Clause 9 of the Tender Notice and Clause 2.5 of the Pre-Qualification Document and are of the considered view that those two must be read harmoniously to lead to the view that we have expressed supra.

17. Reference is made to the Judgement of the Supreme Court in *M/s.Shanti Construction Pvt. Ltd. vs. The State of Odisha and others*, S.L.P.(C)No.16140 of 2023, dated 07.11.2025. Our attention is drawn to



A public tender is not a private bargain. It is instrument of governance, a mechanism through which the State discharges its solemn duty as trustee of public wealth. Its purpose is not merely procedural compliance, but maximisation of public value through a process i.e. fair, transparent and competitive. The obligation of the Tendering Authority is therefore twofold, namely, to interpret its own terms with consistency and to ensure that such interpretation advances, not defeats, the object of tender. The court must intervene in a case of demonstrable misconstruction of a tender condition or irrationality which affects the public interest. When an interpretation of a tender condition narrows competition and excludes the highest bidder on a ground unsupported by law, the decision making process is vitiated. The interpretation of the terms of tender must, therefore, serve the object and purpose of the tender mainly to maximise the revenue to the State, when it deals with a natural resource.

18. We believe that the contents of paragraph no.10, would support the respondents in the present case, rather than the appellant. The argument by the appellant counsel is that their price bid is lower than the bids of other tenderers, who are now within the zone of consideration. This would be a valid argument, had the tenderer satisfied all the eligibility criteria, and cannot be extended to other tenderers who are not so qualified.



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19. Hence, this writ appeal is dismissed confirming the order of the learned Single Judge. No costs. Consequently, connected Miscellaneous Petition is closed.

[A.S.M.J.] & [C.K.J.]
12.11.2025

NCC :Yes/No
Index :Yes
Internet :Yes

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To

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Construction and Maintenance,
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Dr.ANITA SUMANTH, J.
AND
C.KUMARAPPAN, J.

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Order made in
W.A.(MD)No.3028 of 2025

Dated:
12.11.2025