



W.P.No.152 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.01.2026

WEB COPY

PRONOUNCED ON : 29.01.2026

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.152 of 2026

and

WMP.Nos.152, 155 & 159 of 2026 & 1965 of 2026

M/s.Dilip Buildcop Limited
Rep. By Authorised Signatory,
Mr.Shubham Tyagi,
Plot No.5,Inside Govind Narayan Singh Gate,
Chuna Bhatti, Kolar,Road,
Bhopal-462016

... Petitioner

Vs.

1. State Of Tamil Nadu
Rep. by Secretary to the Government,
Highways and Minor ports Department,
Chennai.
2. The Chairman
Tamil Nadu State Highway Authority,
1st floor, Training Centre building,
highways Research Centre Campus,
76 Sardar Patel Road, Guindy
Chennai 25
3. The Tender Inviting Authority/ The Member
Technical
Tamil Nadu State Highway Authority,
1st floor Training Centre Building,
Highways Research Centre Campus,
76 Sardar Patel Road, Guindy
Chennai 25



WEB COPY



W.P.No.152 of 2026

4. KNR construction Limited
Rep. by Authorised Representative
KNR House, 3rd and 4th Floor,
Plot No. 113 and 114 Phase 1,
No. 36 Kavuri Hills, Jubilee Hills Road,
Hyderabad 500 033

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records of order of the 3rd respondent dated 24.12.2025 made in respect of Evaluation of Technical and Financial capacity of bidders in Tender Ref.No.T.N.02/TANSHA/ECR-EC/2025 & Tender Id.No.2025_TNSHA_598198_1 dated 25.08.2025 and consequential order dated 29.12.2025 made with respect to Evaluation Report of Financial bid in Tender Ref.No.T.N.02/TANSHA/ECR-EC/2025 & Tender Id.No.2025_TNSHA_598198_1 dated 25.08.2025 and to quash the same and consequently to direct the respondents 1 to 3 herein to reconsider the Technical bid of the petitioner for Tender Ref.No.T.N.02/TANSHA/ECR-EC/2025 & Tender Id.No.2025_TNSHA_598198_1 dated 25.08.2025.

For Petitioner : Mr.C.Manishankar, Senior Counsel for
Mr.M.Ashwin Kumar

For Respondents : Mr.P.S.Raman, AG assisted by
Ms.R.L.Karthika, Govt. Advocate
for R.1 to R.3.

: Mr.Vijay Narayanan, Senior counsel for
Mr.Vaibhav R. Venkatesh for R.4



WEB COPY

W.P.No.152 of 2026



ORDER

This writ petition has been filed for the following relief:-

“calling for the records of order of the 3rd respondent dated 24.12.2025 made in respect of Evaluation of Technical and Financial capacity of bidders in Tender Ref.No.T.N.02/TANSHA/ECR-EC/2025 & Tender Id.No.2025_TNSHA_598198_1 dated 25.08.2025 and consequential order dated 29.12.2025 made with respect to Evaluation Report of Financial bid in Tender Ref.No.T.N.02/TANSHA/ECR-EC/2025 & Tender Id.No.2025_TNSHA_598198_1 dated 25.08.2025 and to quash the same and consequently to direct the respondents 1 to 3 herein to reconsider the Technical bid of the petitioner for Tender Ref.No.T.N.02/TANSHA/ECR-EC/2025 & Tender Id.No.2025_TNSHA_598198_1 dated 25.08.2025.”

2. The brief facts which have given rise to the above Writ Petition, as stated by the petitioner in their affidavit filed in support of the Writ Petition are set out hereunder:

2.1. The petitioner would contend that they are a reputed



W.P.No.152 of 2026

infrastructure development and construction company established in the year 1987. It is their contention that they have undertaken and executed both Government as well as Private Sector projects across various segments. The main objectives for which the company has been incorporated include the construction of roads, national highways express ways, elevated corridors, bridges and tunnels, long term contracts pertaining to Build operate transfer (BOT) road projects, urban infrastructure works irrigation projects, Irrigation projects, metro rail viaducts, Airport facilities and mining. The petitioner in their affidavit have set out some of the projects completed by them which includes Gorakpur link Expressway, Bangalore-Nidagatta Six-laning (Road Expansion), Chandikhole-Bhadrak Six Laning (Road rehabilitation and upgrade), Yavatmal-Wardha & Mahagaon Yavatman (Four Laning National Highways) etc.

2.2. The petitioner would submit that the 2nd respondent had vide tender notice No. 02/TANSHA/ECR-EC/2025 dated 25.08.2025 invited bids for the construction of Four Lane Elevated Corridor along East Coast Road (ECR) Chennai starting from Thiruvanniyur to Uthandi and for widening of Carriageway to six lanes with paved shoulder along with covered drain cum footpath on either side of the road from 11/800 to 13/615 of the project Corridor.



WEB COPY

2.3. As per the Request for Proposal (RFP) issued by the authority dated 25.08.2025, Clauses 1.1.3 and 1.1.4 provide the broad scope of the work intended. As per Clause 1.2 of the RFP the bid process was a single stage two envelope process. In the first envelop, the RFP provides that the eligibility and qualification of the bidder would be examined (Technical bid) and once the respondents find the Technical bid to be responsive, the 2nd envelop (Financial bid) would be opened and the lowest bidder would be selected by the Authority. However, the bidders were directed to submit their technical as well as the financial bid on the date of submission of the bid. Originally, the bids were to be submitted on or before 23.10.2025 and later extended to 06.11.2025, 12.11.2025 and ultimately to 17.11.2025.

2.4. The petitioner would submit that as per Clause 2.2.2 of RFP the technical requirement was that the bidder should have completed at least one tangible project in the last 10 years financial years preceding the due date with a project cost of Rs.300 crores. The RFP further describes the eligible projects as Highways, Bridges, Elevated Corridors, Road over bridges (ROBs), Flyovers, Elevated Metros etc;. The financial capacity stipulated under the said Clause requires that the bidder should have a minimum net worth of Rs.300 crores at the close of the preceding financial year and a turnover of Rs.1,000 crores in the last three financial years

5/35



W.P.No.152 of 2026

preceding the bid due date. The petitioner would submit that they satisfied the above criteria.

WEB COPY

2.5. It is their case that as per Clause 2.11 of RFP, the petitioner company had submitted all the documents for the Technical as well as Financial bid as per the format provided by the Authority along with requisite bank guarantee of Rs.15 crores which was valid till 05.11.2026. Though the total value of the project was not mentioned in RFP, it was stipulated that a bank guarantee of Rs.15 crores should be furnished and that the value of the project would be disclosed to the successful bidder.

2.6. Apart from the petitioner, five other companies had submitted their bids. On 24.12.2025, the 3rd respondent informed the petitioner that their technical bid had been rejected as being unresponsive to the technical and financial requirements of the Authority under the RFP, without assigning any reasons. Thereafter, on 29.12.2025 the financial bid was also opened and the 4th respondent was declared as the successful bidder.

2.7. The petitioner is aggrieved by the rejection of their bid without assigning any reason and declaration of the 4th respondent as the successful bidder. It is the contention of the petitioner that there was no qualitative assessment undertaken at the time of rejecting their technical bid. In fact,

6/35



W.P.No.152 of 2026

the petitioner was kept in the dark regarding the manner in which the technical bid was evaluated and the technical bid of the 4th respondent was selected. It is also their contention that they had quoted a much lesser bid amount than the 4th respondent and in fact the difference was to the tune of Rs.600 to 700 crores.

2.8. As regards the grievance about the selection of the 4th respondent, the petitioner would submit that one of the condition prescribed in RFP was that the bidder should not be blacklisted/debarred from participating in the tender by equally competent authority such as the Ministry/Department of Government of India, either in its individual capacity or as a member of the partnership/consortium/firm/LLP/JV/, Society/trust on the date of submission of the bid. The 4th respondent would run foul of this condition as they have been blacklisted in the month of May 2025 by the Union Ministry of Road Transport and Highways (MoRTH) and NHAI had disallowed the 4th respondent from participating in any ongoing or future bidding forthwith on account of the collapse of road in NH-66. Despite the 4th respondent having suffered such a debarment and overlooking clause 2.1.17, the bid of the 4th respondent had been accepted.

2.9. The petitioner would further allege that preferential treatment



W.P.No.152 of 2026

has been given to the 4th respondent and the opening of the bid was adjourned periodically in order to help the 4th respondent. Aggrieved thus the petitioner has come forward with the above Writ Petition.

3. The 3rd respondent has filed an application seeking to vacate the stay, along with an affidavit in support thereof, which also forms part of its counter affidavit.

3.1. In the counter, the 3rd respondent would contend that the Writ Petition is premature and even on the merits is unsustainable. It is his contention that the petitioner had knocked the doors of this Court putting forward two conditions:-

(i) that reasons for disqualification had not been indicated to the petitioner.

(ii) The tender was periodically extended mala fide for the sole purpose of enabling the 4th respondent to comply with the conditions prescribed in the RFP.

3.2. The 3rd respondent would submit that the Tamil Nadu Transparency in Tender Act, 1998 (hereinafter referred to as the “Act”) does not contemplate disclosure of reasons for rejection prior to the award of the tender. The 3rd respondent would contend that it is only after the



W.P.No.152 of 2026

tender is awarded that the disclosure of the reasons for disqualification would be posted on the tender bulletin board so as to ensure that the tender process is not scuttled at an intermediate stage.

3.3. The 3rd respondent would contend that the tender is yet to be awarded and the 4th respondent who has been declared as the bidder quoted the least value and negotiations are still ongoing to request the 4th respondent to further reduce their bid amount. Therefore, the contention of the petitioner that they are entitled to know the reasons of disqualification at this stage was totally misconceived one. Therefore, the Writ Petition has to be dismissed on the ground that the same is premature.

3.4. It is the further contention of the 3rd respondent that the allegation of malafide is absolutely false and made with an intent to prejudice the minds of the Court. The 3rd respondent has in a tabulated statement given the sequence of events starting from the sanction of the project till the negotiations that has been held between the respondents.

<u>Sl.No.</u>	<u>Dates</u>	<u>Events</u>
1.	07.05.2025	In Principle Administrative Sanction.
2.	22.08.2025	RFP and DCA Approved
3.	25.08.2025	Bid invitation
4.	17.09.2025	Pre Bid meeting
5.	23.10.2025	Technical bid opening date as originally scheduled
6.	17.11.2025	Technical bid opened
7.	01.12.2025	Tender Scrutiny and Evaluation Committee (TSEC) formed



W.P.No.152 of 2026

- | | | |
|-----|------------|---|
| 8. | 22.12.2025 | Minutes of the Meeting of Committee (TSEC) – Evaluation of Technical & Financial Capacity of bidders. |
| 9. | 23.12.2023 | Minutes of the Tender Approving Committee (TAC) |
| 10. | 24.12.2025 | Financial bid opened |
| 11. | 29.12.2025 | Minutes of the Meeting of Committee (TSEC) – Evaluation of the Financial bid |
| 12. | 02.01.2026 | Minutes of the Meeting of Committee (TSEC) – 1 st Negotiation |

Therefore, the allegation that the 4th respondent has been accorded preferential treatment is wholly misconceived.

3.5. The 3rd respondent would further submit that the 4th respondent was not blacklisted as on the date of the calling of the bid on 25.08.2025 and before the bid could be submitted, the 4th respondent had obtained order dated 18.07.2025 from the Hon'ble High Court of Delhi in OMP(I) (Comm)No.280/2025. Even going by the statement made by the petitioner that the 4th respondent was blacklisted for a period of one month in May 2025, the said blacklisting period came to an end on 11.07.2025, much prior to the issuance of the present tender. Further, at the time of submission of the tender, the 4th respondent had also submitted the orders passed by the Hon'ble High Court of Delhi, referred to supra. In the said order, the Hon'ble Delhi High Court had observed that *“Under the guise of suspension, the bar on the petitioner’s right to bid in future bidding seems be a drastic measure. Therefore, the order dated 11.06.2025 should not be*



W.P.No.152 of 2026

treated to be a disqualification any more”. That apart, 3rd respondent would submit that Rule 27(2) of the Tamil Nadu Transparency in Tender Rules, 2000 (hereinafter referred to as the “Rules”) mandate that the process of tender evaluation should be kept confidential. Such being the case, the petitioner cannot demand that the reasons for rejection be made known even before awarding of the contract as it is contrary to the Rules. Therefore, they sought for the dismissal of the Writ Petition.

3.6. The 4th respondent has also filed an application seeking to vacate the stay, along with an affidavit in support thereof, which also forms part of its counter affidavit.

3.7. In the counter, the 4th respondent would set out their credentials as a reputed infrastructure development and construction company and would submit that one of the recent projects completed by them was the prestigious Elevated Highway Project in Coimbatore City, which was inaugurated on 09.10.2025. The length of this flyover is over 10.100 km which is one of the first of its kind in the State of Tamilnadu. By virtue of the construction of this flyover, people exiting the Airport would be able to avoid busy roads. This project has been appreciated not only by the stakeholders but also by the general public. Since the 4th respondent company has experience in the construction sector, particularly in the

11/35



W.P.No.152 of 2026

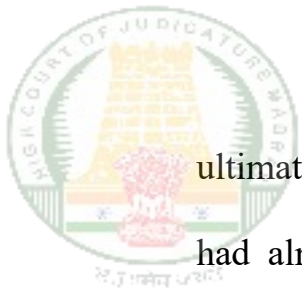
construction of elevated corridors, they had participated in the instant tender.

WEB COPY

3.8. The 4th respondent would submit that they had submitted their Technical and Financial bid on 17.11.2025 along with the bid security amount of Rs.15 crores as stipulated under Clause 2.1.6 of RFP together with all the additional documents as set out in Clause 2.11.1 of the RFP. They would further submit that totally there were six bidders and all of the bids were admitted for technical evaluation. In the course of this technical evaluation, three of them including the petitioner were found unresponsive and their bids were rejected and three others including the 4th respondent had been found eligible and their financial bids were opened and the 4th respondent was declared L-1, having quoted the lowest bid amount.

3.9. As a rebuttal to the various allegations levelled against them by the petitioner, the 4th respondent would submit that their wholly owned subsidiary, namely, M/s.KNR Ramanattukara Infra Pvt. Ltd. was issued a show cause notice dated 21.05.2025 by NHAI followed by a suspension order dated 11.06.2025 for a period of one month. The MoRTH had not blacklisted either the 4th respondent or its subsidiary. The said show cause notice was challenged by the 4th respondent subsidiary before the Delhi High Court in OMP(I)(Comm)No.280/2025 and by order dated 18.07.2025

12/35



W.P.No.152 of 2026

ultimately, the said case was disposed of stating that the impugned order had already lived its life and the order clearly stipulates that the same would be in operation for a period of one month or till the completion of investigation by the investigating committee which ever was later. The Hon'ble Judge had further gone on to state that this order of suspension should not be treated as a disqualification any more. Therefore, in the light of the above, the allegation of the petitioner that the 4th respondent was not qualified is totally without any basis. The further allegation of the petitioner that the date of submission of the bid was extended to facilitate the 4th respondent is totally absurd and is the statement of a disgruntled unsuccessful bidder. The 4th respondent would also submit that the Writ Petition is premature, inasmuch as the occasion for issuance of a reasoned order for rejection of bid has not arisen in terms of Section 10(7) of the Act. Therefore, they sought for the dismissal of the above Writ Petition.

Submissions:-

4. Mr. C.Manishankar, learned Senior Counsel appearing on behalf of the petitioner would draw the attention of the Court to the impugned order and submit that a mere reading of the same would indicate that the same is a non-speaking one as no reasons are given. The order just states that the bid is rejected as it does not meet the technical and financial requirement set out in the RFP. It is his further contention that the statement

13/35



W.P.No.152 of 2026

that the petitioner were not technically compliant is absolutely baseless.

Clause 3.4 of the RFP sets out the technical capacity for the purpose of evaluation and the petitioner would fall within category 1 as set out in Clause 3.4.1. Clause 3.4.3 further sets out in detail, eligible projects under category 1. The projects that the petitioner has undertaken has been set out in detail in para 11 of the affidavit and a mere reading of the same will clearly demonstrate the petitioner's technical capacity.

4.1. It is his further contention that the impugned order is absolutely silent about the reasons which has constrained the 3rd respondent to declare the petitioner's bid as unresponsive. In this regard, the learned Senior Counsel would place reliance on Section 10(7) of the Act to state that the Tender Accepting Authority while rejecting a bid shall give reasons for the rejection, which in the instant case is absent. He would place reliance on two judgments. Firstly, he would rely upon a judgement of this Court in ***WP(MD)No.11721 of 2022 - Dhana. Vimal vs. The Assistant Director of Town Panchayat, Thiruchirappalli & others***, where a learned Single Judge of the Madurai Bench of this Court, while dealing with a similar case involving the rejection of a tender at the stage of technical scrutiny, relied upon the earlier decision reported in ***(2020) 2 CWC 704 (Ganapathy v. Commissioner of Municipal Administration)*** and after considering Section 10(7) and Section 11 of the Act, directed the 3rd respondent therein to

14/35



W.P.No.152 of 2026

furnish the information as contemplated under Section 10(7) of the Act apart from passing other directions. Secondly, he would rely upon a later judgment of this Court reported in (ii) **2023 SCC Online Mad 8422 – Overseas Infrastructure Alliance (India) Private Limited, Mumbai Vs. Chairman, Tamil Nadu Generation and Distribution Corporation Limited Chennai** where the learned Judge relying on the judgment passed by this Court in WP(MD) No.11721 of 2022 had passed similar directions.

4.2. The learned Senior Counsel next made his submission on the second ground of challenge which is the selection of the 4th respondent, despite them not qualifying and by giving them a preferential treatment. He would submit that their argument has been captured in paragraph Nos. 17 and 18 of the affidavit filed in support of the writ petition. He would draw the Court's attention to the various news paper reports which had covered the collapse of the under construction NH-66 at Malappuram undertaken by the 4th respondent and the decision of the NHAI to disallow the 4th respondent from participating in ongoing/future bidding. He would submit that this is totally contrary to clause 2.1.16 and 2.1.17 of the RFP. He would therefore submit that the entire tender process was flawed and the writ petition be allowed.

4.3 The learned Advocate General would counter these arguments



W.P.No.152 of 2026

by submitting as follows: -

WEB COPY

4.4. At the outset, he would submit that the writ petition was premature in as much as the tender was yet to be accepted and it is only on its acceptance that reasons for rejecting the bids need be given. In this regard he would place reliance on the judgment reported in **2022(6) SCC 401 – National High Speed Rail Corporation Limited Vs. Montecarlo Limited and Another** and relied upon paragraph nos. 43, 43.2, 43.3 & 43.5. He would also submit that sufficient reasons have been given by the Tender Scrutiny Committee for rejecting the bid of the petitioner and the same has been stated in paragraph no. 22 of the 3rd respondent's counter.

4.5. He would next submit that paragraph 18 of the counter has extensively dealt with the allegation of the blacklisting of the 4th respondent. He would submit that as on the date of the submission of the bid the 4th respondent had an order passed by the Delhi High Court setting aside the disqualification of the 4th respondent from participating in future bidding and further the issue between the 4th respondent and the NHAI had been resolved through private negotiation. As regards the allegations that the dates of submission of the bid have been postponed only to facilitate the 4th respondent, he would submit that this is far from the truth. The dates were being postponed only on account of the clarifications sought for by

16/35



W.P.No.152 of 2026

the bidders which also includes the petitioner and not for the reasons alluded by the petitioner. Therefore, he would submit that the writ petition be dismissed.

4.6. Mr.Vijay Narayanan, learned Senior counsel appearing on behalf of the 4th respondent would submit that even before the tender notice was issued, the suspension order passed by the NHAI had been set aside. He would further submitted that the Show Cause Notice had been issued to the 4th respondent's subsidiary, M/s.KNR Ramanattukara Infra Pvt. Ltd. on 21.05.2025 which was followed by the suspension order on 11.06.2025. The show cause notice and suspension order were challenged before the Delhi High Court and by order dated 18.07.2025 in OMP(I) (COMM).280/25 the Court observed that after 11.07.2025, the order had lost its significance as the order of suspension was to remain in force for a month. Therefore, the court held that the order dated 11.06.2025 should not be treated as a disqualification. Therefore, the provision of Clause 2.1.16 would not act as a bar against the 4th respondent. He would further submit that the subsidiary and NHAI had entered into an agreement, pursuant to a conciliation process initiated.

4.7. The learned Senior counsel would submit that the contention of the petitioner that they have not been supplied with the reasons for rejection



W.P.No.152 of 2026

is baseless and runs contrary to the provisions of Section 10(7) of the Act and Rules 27 to 30 (3) of the Rules. He would in this regard place reliance on the judgment reported on **2020 (16) SCC 489 – Silppi Constructions Contractors Vs. Union of India and Another** and relied on paragraph nos. 2 and 25 therein.

4.8. He would further submit that after the amendment to Section 41 of the Specific Relief Act by the introduction of clause (ha), the infrastructure projects should not be stayed in view of the legislative intent. He would in this regard rely upon the judgment of the Hon'ble Supreme court reported in **2022 (6) SCC - 127 – N.G.Projects Limited vs. Vinod Kumar Jain & others**. He would further submit that the Tender is only at the Stage of negotiations with L1 ie., the 4th respondent and therefore the writ petition is premature and liable to be set aside. He would therefore pray for the dismissal of the Writ Petition.

Discussions:-

5. The challenge in the writ petition is on two grounds:

(a) Reasons have not been provided for rejecting the bid of the petitioner.

(b) Despite the blacklisting of the 4th respondent, their bid has been accepted and preferential treatment has been shown to them by postponing



the date of submission of the bid.

WEB COPY

5.1. With regard to the second ground, the records would show that there was a wall collapse on a Kerala Highway project which occurred on the Ramanattukara -Valanchery Section of NH-66 and this mishap was attributed to the negligence on the part of the 4th respondent's subsidiary. This incident took place in the month of May 2025. The 4th respondent subsidiary was issued with a show cause notice and they were banned from participating in future tender being floated by MoRTH, NHAI, NHIDCL and BRO.

5.2. It further appears that this Show Cause Notice and suspension order was challenged by the 4th respondent before the Delhi High Court in O.M.P.(I)(Comm) 280/2025. The Delhi High Court had passed the following order on 18.07.2025:-

“10. As stated by Mr. Santosh Kumar the investigation is over on 03.07.2025 and one month's period expires on 11.07.2025, which is a later date, therefore, order has lost its significance after 11.07.2025. Under the guise of suspension, the bar on petitioner's right to bid in future bidding seems to be a drastic measure. Therefore, the order dated 11.06.2025 should not be treated to be a disqualification anymore.



11. The Department, however, shall be at liberty to take further action in accordance with extant policy.”

WEB COPY

5.3. It has also been submitted by the learned Senior Counsel appearing for the 4th respondent that the NHAI and the 4th respondent's subsidiary have entered into a compromise in and by which the 4th respondent has undertaken to rebuild the damage portion at their costs. From the relevant dates it is seen that even before the instant tender was floated, the 4th respondent had got the suspension order set aside.

5.4. Clause 2.1.16 of the RFP would read as follows:

“2.1.16 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as member of a Consortium. “

Therefore, as on the date of their submission of the bid, the 4th respondent did not suffer from the bar set out in the clause 2.1.16.

5.5. From the typed set of papers submitted by the 4th respondent, it is also seen that the petitioner company was also in the news for mishaps that had occurred at the construction site of the new Zuari Bridge, Goa and

20/35



the collapse of the Vizag Flyover.

WEB COPY

5.6. The allegations regarding preferential treatment to the 4th respondent by postponing the last date for submission of the bid has been answered in the affidavit filed by the 3rd respondent in support of WMP No.2067 of 2026 at paragraph 18 as follows:-

“18. As regard the averments made in para No.18 of the affidavit, it is submitted that the petitioner alleges the tender process or bid submission timelines were postponed or manipulated to favour the 4th Respondent, which is emphatically denied as false and baseless. All extensions of time, were necessitated on account of such pre-bid queries and clarifications, raised by the Petitioner and other bidders. and were uniformly applicable to all participants. Having himself sought clarifications close to the bid due date on 30.10.2025 & 06.11.2025, the Petitioner is estopped from alleging that the consequential extensions were intended to favour the 4th Respondent. The allegation of mala fide extension is therefore an afterthought, contrary to record, and liable to be rejected outright.”

That apart, the suspension order against the 4th respondent had been cleared even before the instant tender had been floated.

5.7. The foremost and major grievance of the petitioner is that reasons for rejecting the bid has not been provided in the impugned order.



W.P.No.152 of 2026

The defense to this argument is that reasons have to be given only after the acceptance of the bid of any one of the bidders and at this stage, the petitioner cannot demand the reasons. To appreciate this argument, the following provisions in the Act and Rules need to be extracted:-

Section 10(7) of the Act:-*The Tender Accepting Authority shall intimate the information regarding the name and address of the tenderer whose tender has been accepted along with the reasons for rejection of other tenders to the appropriate Tender Bulletin Officers.*

Rule 27 of the Rules:-*Process of tender evaluation to be confidential until the award of the contract is notified.-*

(1) Subject to the provision of [sections 13 and 14 of the Act], the Tender Inviting Authority shall ensure the confidentiality of the process of tender evaluation until orders on the tenders are passed.

(2) The Tender Accepting Authority shall cause the information on orders passed on the tenders published in the Tender Bulletin.

(3) Tenderers shall not make attempts to establish unsolicited and unauthorised contact with the Tender Accepting Authority, Tender Inviting Authority or Tender Scrutiny Committee after the opening of the Tender and prior to the notification of the Award and any attempt by any tenderer to bring to bear extraneous pressures on the Tender Accepting Authority shall be sufficient reason to disqualify the tenderer.



(4) *Notwithstanding anything contained in sub-rule (3), the Tender*

Inviting Authority or the Tender Accepting Authority may seek bonafide clarifications from tenderers relating to the tenders submitted by them during the evaluation of tenders.

Rule 28 of the Rules:- Initial examination to determine substantial responsiveness.-

(1) The Tender Inviting Authority shall cause an initial examination of the tenders submitted to be carried out in order to determine their substantial responsiveness.

(2) The initial examination shall consider the following factors, namely:-

(a) Whether the tenderer meets the eligibility criteria laid down in the tender documents;

[(b)(i) Whether the crucial documents have been duly signed;

(ii) Whether the documents have been authenticated by digital signature, in the case of tenders submitted through electronic mail in the designated website.]

(c) Whether the requisite Earnest Money Deposit (EMD) has been furnished;

(d) Whether the tender is substantially responsive to the technical specifications, commercial conditions set out in the bidding documents including the testing of samples where required.



W.P.No.152 of 2026

(3) *Tenders which on initial examination are found not to be substantially responsive under any of the clauses under sub-rule (2) may be rejected by the Tender Accepting Authority.*

Rule 29 of the Rules:- Determination of the lowest evaluated price.-

(1) Out of the tenders found to be substantially responsive after the initial examination, the tenderers who has bid the lowest evaluated price in accordance with the evaluation criteria or the tenderers scoring the highest on the evaluation criteria specified as the case may be shall be determined.

(2) In determining the lowest evaluated price, the following factors shall be considered, namely:-

(a) the quoted price shall be corrected for arithmetical errors;

(b) in cases of discrepancy between the prices quoted in words and in figures, lower of the two shall be considered;

(c) adjustments to the price quoted shall be made for deviations in the commercial conditions such as the delivery schedules and minor variations in the payment terms which are quantifiable but deemed to be non-material in the context of the particular tender;

[(d) the evaluation shall include

[State Goods and Services Tax, Central Goods and Services Tax, Integrated Goods and Services Tax, and all central duties such as customs duty] as a part of the price, as detailed below: -



W.P.No.152 of 2026

(i) *in evaluation of the price of an imported item, the price has to be determined inclusive of the customs duty;*

WEB COPY

(ii) *in evaluation of the price of articles which are subject to [State Goods and Services Tax, Central Goods and Services Tax, Integrated Goods and Services Tax], the price has to be determined inclusive of such [State Goods and Services Tax, Central Goods and Services Tax, Integrated Goods and Services Tax];*

[(iii) and (iv) ...]

(e) *in the case of purchase of equipment, the operation and maintenance and spare part costs for appropriate periods as may be specified in bid documents may be quantified, where practicable and considered.*

(f) [...]

(3) *In order to secure the best possible procurement price, negotiations with tenderer determined as per [sub-rules (1) and (2) of this rule] are permissible subject to provisions in section 10 of the Act.*

[(4) In the event that two or more tenderers have made the same financial bid and the splitting of the tender is not possible in accordance with sub-section (5) of section 10 of the Act, the Tender Accepting Authority shall identify the lowest tenderer by adopting one of the following approaches, which shall be pre-specified in the Tender Documents:



W.P.No.152 of 2026

(a) In case of multi-stage tenders, by taking into account the qualification score of each tenderer from the first stage and the tenderer with higher score shall be adjudged the Lowest Tenderer; or (b) By asking the two tenderers to provide their best and final offer of the financial bid in a sealed cover and the tenderer offering the most advantageous financial bid shall be adjudged the Lowest Tenderer. (c) In case, a tie still persists after the procedure contained in clause (a) or (b) of this sub-rule has been followed, the selected tenderer shall be identified by draw of lots, which shall be conducted, with prior notice, in the presence of the tied tenderers or their representatives who choose to be present.]

Rule 30(3) of the Rules :- *As soon as the tenderer qualified to perform the contract is identified, in accordance with section 10(6) of the Act, the Tender Accepting Authority shall pass orders accepting the tender and communicate the order of acceptance to the successful tenderer. The Tender Accepting Authority will also send to the Tender Bulletin Officer a statement of evaluation of the tenders with a comparative statement of tenders received and decision thereon for publication in the Tender Bulletin.*

5.8. The relevant portion of the impugned order is extracted herein below in order to appreciate the arguments advanced in this regard.



W.P.No.152 of 2026

“The bids of M/s M. Venkata Rao Infra Projects Private Limited,

M/s.Dilip Buildcon Limited and M/s Bekem Infra Projects Private Limited

are declared as non-responsive bidders, since they do not meet the technical and financial capacity requirements stipulated in the RFP.

2. The bids of M/s NCC Limited, (M/s KNR Constructions) Limited and M/s Navayuga Engineering Company Limited are declared as responsive bidders, since they meet the technical and financial capacity requirements stipulated in the RFP and eligible for further stages of the tender process without prejudice to the final outcome of the tender.”

5.9. A reading of the above would clearly show that the tender has crossed the stage of 3.6 and the successful bidder is yet to be declared as contemplated in Section 3, Clause 3.8 of of RFP. A reading of the provision of Section 10(7) of the Act would indicate that the information regarding the successful bidder and the reasons for rejecting the other bidders have to be simultaneously initiated to the appropriate bulletin Officer. Rule 27 enjoins that the Tender Investing Authority should ensure confidentiality in respect to the process of tender evaluation until orders on the tenders are passed and the orders published in the tender bulletin. This is further reiterated in Rule 30(3) of the Rules. The Judicial pronouncements of the Hon’ble Supreme Court would confirm the same.

27/35



WEB COPY

5.10. In the judgment in **Montecarlo and another (referred supra)**, the Hon'ble Supreme Court has stated as follows.

43.3. As observed hereinabove, the object and purpose would be no interference in the tender process in between till the final decision to award the contract is taken. By no stretch of imagination, it can be said that it takes away the right of the unsuccessful bidder to seek the judicial scrutiny of the tender process. After the final decision is taken to award the contract and the contract is awarded, thereafter it will always be open for the unsuccessful bidders to ask for the reasons to which the employer is required to furnish promptly and thereafter the unsuccessful bidder may avail the legal remedy, which may be available to it, may be claiming the damages.

43.4. The High Court ought to have appreciated that it is always advisable that in such a foreign funded Mega project, delay may have a cascading effect and many a times have a financial burden due to delay in projects and therefore, there shall be minimal interference and/or no interference till the entire tender process or till the award of



WEB COPY



W.P.No.152 of 2026

contract is completed. The foreign funded agency therefore is justified in providing such clauses to prevent challenge to the tender process midway. A foreign funded agency, who invests/funds such a huge amount for such a Mega project on bilateral talks between two countries is justified in insisting such clauses and to insist that the information relating to the evaluation of the bids and recommendation of contract award shall not be disclosed to bidders or any other person until information on contract award is communicated to all the bidders and the grounds on which the unsuccessful bidders' bids are not selected shall be provided thereafter.

5.11. The Government with an intent to ensure a smooth functioning of public works project had amended Section 41 of the Specific Relief Act by introducing Section (ha) on the recommendation of the Expert Committee set up for examining the Specific Relief Act and suggest modification. Section 41 (ha) of the Specific Relief Act would read as follows:-

19. The Specific Relief Act, 1963 was amended by Central Act 18 of 2018 when clause (ha) was inserted in Section 41 of the said Act to say:



W.P.No.152 of 2026

"41. (ha) if it would impede or delay the progress or completion of any infrastructure project or interfere with the continued provision of relevant facility related thereto or services being the subject-matter of such project.

WEB COPY

5.12. This Section, namely, Section 41(ha) was considered by the Hon'ble Supreme Court in its Judgment in ***N.G. projects Ltd. (referred supra)***. The Bench observed that there should be minimal interference of Courts in matters of tender. The Bench observed as follows:

21. Since the construction of road is an infrastructure project and keeping in view the intent of the legislature that infrastructure projects should not be stayed, the High Court would have been well advised to hold its hand to stay the construction of the infrastructure project. Such provision should be kept in view even by the Writ Court while exercising its jurisdiction under Article 226 of the Constitution of India.

22. The satisfaction whether a bidder satisfies the tender condition is primarily upon the authority inviting the bids. Such authority is aware of expectations from the tenderers while evaluating the consequences of non-



WEB COPY



W.P.No.152 of 2026

performance. In the tender in question, there were 15 bidders. Bids of 13 tenderers were found to be unresponsive i.e., not satisfying the tender conditions. The writ petitioner was one of them. It is not the case of the writ petitioner that action of the Technical Evaluation Committee was actuated by extraneous considerations or was mala fide. Therefore, on the same set of facts, different conclusions can be arrived at in a bona-fide manner by the Technical Evaluation Committee. Since the view of the Technical Evaluation Committee was not to the liking of the writ petitioner, such decision does not warrant for interference in a grant of contract to a successful bidder.

23. In view of the above judgments of this Court, the Writ Court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer. The Court does not have the expertise to examine the terms and conditions of the present day economic activities of the State and this limitation should be kept in view. Courts should be even more reluctant in interfering with contracts involving technical issues as there is a requirement of the necessary expertise to



WEB COPY



W.P.No.152 of 2026

adjudicate upon such issues. The approach of the Court should be not to find fault with magnifying glass in its hands, rather the Court should examine as to whether the decision-making process is after complying with the procedure contemplated by the tender conditions. If the Court finds that there is total arbitrariness or that the tender has been granted in a malafide manner, still the Court should refrain from interfering in the grant of tender but instead relegate the parties to seek damages for the wrongful exclusion rather than to injunct the execution of the contract. The injunction or interference in the tender leads to additional costs on the State and is also against public interest. Therefore, the State and its citizens suffer twice, firstly by paying escalation costs and secondly, by being deprived of the infrastructure for which the present-day Governments are expected to work.

5.13. This Court had called for the original papers relating to the Tender Evaluation and the same was also produced. A perusal of the same would indicate that the committee have considered each of the bids and given their reasons for rejecting / accepting the bids. However, since the reasons have to be given only after the successful bidder is declared this

32/35



Court shall not refer to the reasons.

WEB COPY

5.14. Therefore, as per the dicta laid down by the Hon'ble Supreme Court in the case of *Monte Carlo (cited supra)* and the caution sounded in the case of *N.G.Projects (cited supra)* and considering the fact that the acceptance of the tender is yet to take place, the relief claimed by the petitioner cannot be countenanced. Therefore, the Writ Petition is dismissed.

5.15. Further in paragraph no. 22 of the affidavit filed in support of the vacate stay petition, the 3rd respondent has undertaken as follows:-

'22. Suffice it to state that sufficient reasons are available for the disqualification of the Petitioner and tender scrutiny committee's evaluation reports, and committee meeting files and the reasons for the disqualification are all part of the records of the tender and as stated earlier, the precise reasons of disqualification will be posted on the tender bulletin website as soon as this Respondent has finalised L1 and issues the letter of award which is yet to take place till today. Consequently, the entire Writ Petition is premature and deserves to be dismissed.

The same is therefore recorded.



W.P.No.152 of 2026

5.16. No costs. Consequently, the connected Miscellaneous Petitions are closed.

29.01.2026

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.State Of Tamil Nadu
Rep. by Secretary to the Government,
Highways and Minor ports Department,
Chennai.

2.The Chairman
Tamil Nadu State Highway Authority,
1st floor, Training Centre building,
highways Research Centre Campus,
76 Sardar Patel Road, Guindy
Chennai 25

3.The Tender Inviting Authority/ The Member Technical
Tamil Nadu State Highway Authority,
1st floor Training Centre Building,
Highways Research Centre Campus,
76 Sardar Patel Road, Guindy
Chennai 25



WEB COPY



W.P.No.152 of 2026

P.T. ASHA. J.,

(shr)

W.P.No.152 of 2026

29.01.2026