IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
13.03.2026	23.03.2026

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 7393 OF 2026
AND
W.M.P. NOS. 7945, 7946, 10320 & 11406 OF 2026

Arun Construction & Contractors
Rep. By its Managing Partner
A.Rathna
Thalapallam Village
Bikkampatti Post
Pennagaram Taluk
Dharmapuri District - 636 813. .. Petitioner

- Vs -

1. The State of Tamil Nadu
   Rep. By the Superintending Engineer
   Highways Department
   Construction & Maintenance Circle
   Salem – 7, Salem District.

2. The Divisional Engineer
   Highways Department
   Construction & Maintenance Circle
   Krishnagiri, Krishnagiri District.

3. M/s.T.P.S. Construction Company

Rep. By its Managing Partner
Mr. T.P.Sekar
39/3A-1, Dharmapuri Main Road
Sikkanampatti Village
Kadayampatti, Salem
Tamil Nadu 636 309. .. Respondents
(R-3 impleaded vide order of court
Dated 9.3.2026 made in WMP 10394/26)

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the impugned order passed by the 1st respondent vide Ref. Nil dated 12.02.2026 and quash the same and consequently direct the 1st respondent to accept the bid of the petitioner in the e-tender issued by the 1st respondent vide No.53/2025-2026/HDO dated 20.01.2026 in respect of the work "Widening from Two Lane to Four Lane and strengthening at Km 0/0-4/0 of Malur – Hosur – Adhiyamankottai Road including CD works (SH-17)".

For Petitioner	:	Mr. K.Balu
For Respondents	:	Mr. M.Suresh Kumar, AAG, Assisted by Mr. S.Rajesh, GA, for RR-1 and 2 Mr.Sricharan Rangarajan, SC, for Mr.K.Gowtham Kumar for R-3

ORDER

The rejection of the bid of the petitioner in the e-tender process initiated by the 1st respondent through the impugned order is put in issue through the present writ petition.

2. The facts in brief, necessary for consideration of the issue raised in the present petition could be summarised thus :-

Pursuant to the notification calling for bids, floated by the respondents, for the widening of two lane to four lane and strengthening at Km 0/0-4/0 of Malur-Hosur-Adhiyamankottai Road including CD works (SH-17) for the approximate value of Rs.2087.30 Lakhs, the petitioner intended to participate in the tender process by submitting his e-tender, which form could be downloaded upto 7.2.2026. It is the further averment of the petitioner that such submission of e-tender should be accompanied with a Work Site Inspection Certificate and working conditions of Plants and Machinery certificate, which is to be issued by the concerned Divisional Engineer, Highways Department, viz., the 2nd respondent herein for which the request for such certificate should reach the office of the 2nd respondent on or before 2.2.2026 upto 17.45 hrs., and upon such receipt, the certificate will be issued by the 2nd respondent on or before 6.2.2026 upto 17.45 hours.

3. It is the further averment of the petitioner that though a request for issuance of the said certificate was placed as early as on 27.01.2026 to the 2nd respondent, the same was not issued and inspite of representation, the 2nd respondent did not issue the said certificate, but it is alleged that inspite of the personal representation of the petitioner, the 1st and 2nd respondents orally rejected the request of the petitioner for issuance of the said certificate. Therefore, the petitioner was constrained to file W.P. No.4378/2026 and based on the orders of this Court, the certificate was issued to the petitioner. It is the further averment of the petitioner that the last date for submission of bid was extended on 12.02.2026 and upon receipt of the certificate issued by the 2nd respondent, the petitioner participated in the auction by submitting his e-bid along with all the necessary enclosures.

4. It is the further averment of the petitioner, that to his shock and surprise, the 1st respondent, vide order dated 12.02.2026, rejected the bid of the

petitioner holding that the condition imposed in sub-clause 2.2 of clause 2 of the Instructions to the Applicants in the Tender Notification has not been fulfilled by the petitioner. It is the further averment of the petitioner that though the petitioner has successfully completed one Highways work and had met the eligibility criteria, by completing the said work on 11.09.2025 and the same has also been certified by the 2nd respondent vide the experience certificate dated 28.01.2026, the impugned order of rejection had come to be passed and, therefore, left with no other alternative and efficacious remedy, the petitioner has filed the present petition before this Court.

5. Learned counsel appearing for the petitioner submitted that the 1st respondent failed to consider the experience certificate issued by the 2nd respondent in which the 2nd respondent has certified the experience of the petitioner by certifying that the petitioner had successfully completed one Highways work on 11.9.2025 vide his certificate dated 28.01.2026. However, without considering the import of the said experience certificate, the impugned order had come to be passed.

6. It is the further submission of the learned counsel that no opportunity has been provided to the petitioner by the 1st respondent before passing the impugned order and, therefore, the impugned order is passed in violation of principles of natural justice.

7. It is the further submission of the learned counsel that respondents 1 and 2, in collusion, has failed to consider the experience certificate, in order to facilitate the provide the tender to other applicants notwithstanding the fact that the bid amount quoted by the petitioner for the abovesaid work is lower than the other bidders, which clearly shows the mala fide intent with which the impugned order has come to be passed.

8. It is the further submission of the learned counsel that rejection order has been passed by referring to sub-clause 2.2 of clause 2 relating to General Experience of the bidder, in which it has been specifically prescribed that the applicant should have successfully completed atleast one contract of highways road/bridge works/airport contract atleast 40% of the value of the proposed contract in any one year within the last five years.

9. It is the submission of the petitioner that the terminology used in sub-clause 2.2 of clause 2 of Instructions to applicants provided is *"in any one year"* which would clearly go to show that it has to be construed as an annual year and not a financial year. When the respondents have not specifically stated that it should be in any one financial year, the petitioner having successfully completed the work in the preceding year, which has since been certified by the 2nd respondent through the experience certificate, the rejection of the application of the petitioner that he has not completed the value of work in any one year is grossly erroneous. The wrong interpretation of the term in any one year found in sub-clause 2.2 of clause 2 has resulted in the deprivation of consideration of the bid of the petitioner for benefitting certain other bidders and, therefore, the said rejection order deserves to be interfered with. Accordingly, he prays for setting aside the impugned order and allowing the writ petition.

10. Per contra, learned Addl. Advocate General and the learned senior counsel appearing for respondents 1 and 2 and the 3rd respondent submitted that clause 3 of the tender notification provides the check list to be submitted by the

prospective bidders, in which there is a clear note which stipulates that the current year provided in the tender document means the assessment year, viz., the completed year immediately preceding the date, month and year in which notice inviting tenders for pre-qualification is published.

11. It is the further submission of the learned senior counsel that sub-clause 3.2 of clause 3 provides the manner in which the bid capacity should be worked out by the bidder in accordance with para 2.8 of the tender conditions, which provides for the multiplying factor, which is to be adopted for the various years, which clearly shows that the term *"in any one year"* provided in sub-clause 2.2. of clause 2 relates to the financial year.

12. It is the submission of the learned senior counsel that the experience certificate submitted by the petitioner would clearly reveal that the petitioner commenced the work on 14.2.2025, which falls in the financial year 2024-2025 and completed the same on 11.09.2025, which falls in the financial year 2025-2026. However, no split up for the work done between the two financial years have been provided by the petitioner, which alone would be the guiding factor to

assess whether there is compliance with sub-clause 2.2. relating to the 40% value as prescribed in the said sub-clause.

13. It is the further submission of the learned senior counsel that if the work done in the two financial years are split up, the petitioner would not have achieved the required eligibility criteria and if at all the petitioner is aggrieved about the rejection, the aforesaid issue could only be gone into u/s 11 of the Tamil Nadu Tender Transparency Act and not through a writ petition under Article 226 of the Constitution.

14. It is the further submission of the learned senior counsel that even the technical details prescribed by the petitioner doe not fulfil the conditions prescribed in the bid document and, therefore, the technical qualification of the petitioner cannot also be properly appraised.

15. It is the further submission of the learned senior counsel that even if the bid quoted by the petitioner is lower than the bid quoted by the other prospective bidders, including the 3rd respondent, the mere fact that the

petitioner has quoted a lower bid amount cannot gloss over the fact that the petitioner is not technically qualified and has not satisfied the work experience and also achieving the 40% of the value of the proposed contract and, therefore, the rejection of the bid of the petitioner cannot be held to be erroneous.

16. It is the further submission of the learned counsel that the contention of the petitioner is on an erroneous interpretation of the expression “year” occurring in the tender conditions. It is the submission of the learned senior counsel that the contention of the petitioner that the said expression should be construed as a calendar year is grossly misconceived, as the tender document should be read as a whole and the expression should not be read in isolation. It is the further submission of the learned senior counsel that read as a whole, the term *“year”* would not signify a calendar year; rather it has to be seen as a financial year as the other clauses and the conditions in the tender document clearly references the year as financial year and, therefore, the interpretation sought to be given by the petitioner for the term *“year”* is wholly erroneous.

17. It is the further submission of the learned senior counsel that the calendar year would reference a year starting from January to December, while the materials sought for from the prospective bidders relate to financial year, as it references the financial statements and other income tax documents which could only lead to the inference that *"in any one year"* mandated in sub-clause 2.2 of clause 2 would only refer to the financial year and not calendar year. It is further pointed out by the learned senior counsel that the scheme of the tender document would clearly reveal that the eligibility criteria relating to work experience, financial capacity and completion of works are invariably assessed with reference to the financial year in commercial and governmental process. Further, it is the submission of the learned senior counsel that though sub-clause 5.7 of clause 5 provides that in case any clarification is required, the same could be sought for from the Superintending Engineer (Highways), as provided therein, however, curiously, the petitioner has not resorted to getting the aforesaid clarification from the authority concerned and the wrong interpretation of the petitioner cannot act in detriment to the other prospective bidders, who have interpreted the term *"year"* as provided in sub-clause 2.2 correctly and, therefore, the plea advanced on behalf of the petitioner does not deserve

consideration. Accordingly, the respondents pray for dismissal of the writ petition.

18. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record, more particularly the clauses of the tender notification to which this court's attention was drawn.

19. Before adverting to the merits of the case, the clauses, which have a bearing on deciding the issue, more particularly, sub-clause 2.2 of clause 2, the note appended to clause 2.3 and 3 which are identical, sub-clause 5.7 of clause 5 and Application No. (7) are quoted hereunder :

*"**2. <u>Instructions to Applicants</u>***

* * * * * * *

2.2 <u>General Experience</u>

The appellant shall meet the following minimum criteria :

i. The applicant in the same name and style should have achieved average annual turnover (defined as billing for works in progress and completed) over the last five years of 40% of the value of contract applied for (ie) Rs.834.92 Lakhs.

ii. The applicant in the same name and style, as prime contractor should have successfully completed at least one contract (Highways road and/or Bridge works / Airport works contract) at least 40% of the value of proposed contract in any one year within the last five years.

iii. <u>The experience in similar nature of work should also include the following minimum quantities of works completed in any one year within the last five years</u>.

2.3 <u>Escalation</u>

* * * * * * *

Note : Current year means the assessment year (i.e.) the completed year immediately preceding the date, month and year in which notice inviting tenders for prequalification is published.

3. <u>Check List for Information to be furnished</u>

* * * * * * *

Note : Current year means the assessment year (i.e.) the completed year immediately preceding the date, month and year in which notice inviting tenders for prequalification is published.

5. <u>General</u>

* * * * * * *

5.7 For any clarification the Superintending Engineer (Highways), Construction and Maintenance, Salem Circle, Steel Plant Road, Jahir Ammapalayam, Salem – 636 302 (Phone

No.0427-2445266) may be contacted on all working day at working hours."

(Emphasis Supplied)

20. From the above, it is clear that while sub-clause 2.2 of clause 2 uses the expression *"in any one year"*, which, specifically does not spell out whether it is annual year or financial year, however, in the *"Note"* appended to clause 2.3 and 3, there is an indicator that *"current year"* means the assessment year, which is the completed year immediately preceding the date, month and year.

21. Though it is the contention on behalf of the petitioner that there is no clear indication as to what *"in any one year"* clearly spells out, whether it is annual year or financial year and, therefore, taking the broader meaning of one year, it could only be held to be annual year, which would necessarily be Jaunary to December and the petitioner having completed one work between February, 2025 and September, 2025, the petitioner squarely falls within the zone of consideration.

22. As already stated above, looking at the above alone, there seems to be a bit ambiguity with reference as to what the interpretation should be for the expression *"in any one year".* However, to iron out the doubts or clarifications which the prospective bidders would have as to the interpretation or meaning which has to be given to any expression in the tender document, sub-clause 5.7 of clause 5 had provided that intending bidders, who entertain doubts, could very well seek clarification before the authority, who has been prescribed under sub-clause 5.7. However, it is to be noted that the petitioner had self-interpreted the provision to his choice and had submitted the bid document without taking recourse to sub-clause 5.7, which is fatal to his case.

23. Be that as it may. Though the petitioner had interpreted the expression *"in any one year"* appearing in sub-clause 2.2 of clause 2 as to mean an annual year, however, it is to be pointed out that it has been the consistent view of the courts that the bid document has to be read as a whole and not in isolation or to the benefit of the bidder. In such a backdrop, a perusal of the other portions of the bid document reveal that in *"Application form (7)"* which deals with submission of financial statements, the financial information is sought

to be produced therein by the prospective applicants, wherein it has been provided thus :-

> *"The applicants should provide financial information to demonstrate that they meet the requirements stated in the instructions to applicants. If necessary, use separate sheets to provide complete banker information. A copy of the audited balance sheets should be attached.*
>
> * * * * * * *
>
> *2. <u>Summary of assets and liabilities on the basis of the audited financial statement of the last five financial years</u>. (attach copies of the audited financial statement of the last five financial years). Based upon known commitments, summarise projected assets and liabilities in Indian Rupees for the next two years.*
>
> * * * * * * *
>
> *3. Annual value of construction works, undertaken for each of the last five years and projected for current year.*
>
> *Note 1 : Current year means the assessment year (ie) the completed year immediately preceding the date, month and year in which notice inviting tenders for prequalification is published."*
>
> *(Emphasis Supplied)*

24. The above application form (7) clearly provides a pointer as to how the expression *“in any one year”* needs to be interpreted. Clause 2 of the said financial statement, in unambiguous term provides that the summary of assets and liabilities should be provided on the basis of the audited financial statement of the last five financial years, which clearly means that *“in any one year”* would only relate to *“any one financial year”* and it cannot be taken to infer that it is annual year. To hold as above, Note-1 appended to the application form (7) also provides the meaning of current year to mean the assessment year. When all through the document, current year is meant as the assessment year which is immediately preceding the date, month and year in which notice inviting tenders for prequalification is published, necessarily the inference that is to be drawn with reference to the expression *“in any one year”* would only mean that it is *“any one financial year”* and by no stretch could it be held to be an annual year.

25. The above view of this Court is further strengthened from the fact that clause 3 of the Application Form (7) calls upon the applicant to provide the annual value of construction works undertaken for each of the last five years and also the value projected for the current year, which would unambiguously go to

show that annual value of the construction works undertaken for each of the last five years would only be relatable to a *"financial year"* and not an annual year, as in the case of annual year, the same would fall under two different financial years, whereas, the application form had sought for the annual value of the last five years, meaning thereby, it specifies the financial year and not the annual year.

26. Further, one other aspect, which also stares on the face of record is the fact that the third condition prescribed in sub-clause 2.2 of clause 2 provides that *experience in similar nature of work should also include the following minimum quantities of works completed* *<u>in any one year within the last five years</u>* and this condition, if read in conjunction with clause (2) of Application Form (7), would clearly show that the expression *"in any one year"* prescribed in sub-clause 2.2 of clause 2 would only be relatable to a *"financial year"* as even in clause (2) of the Application Form (7) there is a clear indication that statement for last five financial years have to be produced and, therefore, reading harmoniously, *"any one year"* would only mean *"financial year"*.

27. Further, it is to be pointed out that except for the one place in sub-clause 2.2, where it has been expressed as *"in any one year"* all through the other places in the tender document, the terminology used is *"financial year"* and *"assessment year"* and even the manner in which the assessment year has to be reckoned is appended as a note and, therefore, the solitary expression found in sub-clause 2.2 cannot be construed for the benefit of the petitioner; rather, it is to be interpreted on a complete reading of the tender document and such being the case, the proper interpretation that ought to be given to the expression *"year"* could only be held to be *"financial year"* and not *"annual year"* as interpretation as *"annual year"* cannot be harmoniously read with other portions of the tender document.

28. True it is that the petitioner has completed a work of the value as has been specified in sub-clause 2.2, however, as aforesaid, it is not with reference to a particular financial year, but it falls between two different financial years, viz., 2024-2025 and 2025-2025, as the work was commenced on 14.02.2025 and was completed on 11.9.2025. Once the expression *"in any one year"* appearing in sub-clause 2.2 has been held to be construed as *"in any one financial year"* then

necessarily, there could only be pro-rata consideration of the amount between the two financial years though the value provided in sub-clause 2.2 was to be in one financial year.

29. The petitioner cannot construe a provision at his will and in case two constructions are possible, then it is the duty of the petitioner to have approached the authority prescribed under sub-clause 5.7 and to have sought for clarification. However, the petitioner had given an interpretation to the expression *"in any one year"* as per his choice and had filed the bid and such a construction cannot be put against the respondents to claim that it is the proper construction, as, as has been held by the courts, the tender document should be read as a whole and not in isolation or to the benefit of a certain individual or group of individuals. Therefore, the contention of the petitioner that the expression *"in any one year"* is to be interpreted as *"annual year"* is not a harmonious way of reading the tender document and, therefore, the contention in this regard deserves to be rejected.

30. The next issue that requires the consideration of this Court is with regard to violation of principles of natural justice, as it has been claimed by the petitioner that no opportunity was given before rejecting its bid. The contention, even at the very outset, requires to be negatived for the simple reason that sub-clause 5.7 of clause 5 had provided an opportunity for the prospective applicants to seek necessary clarification before submitting the tender document, which would only go to show that an opportunity has been provided to the prospective applicants to clear their doubts before submitting the tender document. When the prospective applicants have not utilized the opportunity to have their doubts clear, but had given their own interpretation and submitted their documents, no necessity arises for the respondents to provide an opportunity of hearing to the applicant before passing any order on the bid submitted by such applicant. Therefore, the claim of violation of principles of natural justice does not arise and the same is nothing but a futile attempt on the part of the petitioner to catch hold of a lifeline to prolong the tender process.

31. The last of the contention relates to the lower bid amount offered by the petitioner, which is much lower to the other bidders and, therefore, it is

sought to be emphasized that it is a benefit to the exchequer and, therefore, even if minor infractions are there with regard to submission of certain documents, the same cannot derail the claim of the petitioner.

32. True it is that the process of tender is for the purpose of benefitting the exchequer, but that alone cannot be a ground to permit infraction in the submission of documents, when conditions have been laid down by the tender inviting authority, which is of relevance in deciding the successful bidder. The process of tender is to give the benefit to the exchequer in terms of monetary consideration, but the conditions laid down in the tender document relate to the quality of the work that would be turned out by the successful bidder and the quality of work is necessarily a factor which has to be kept in mind, moreso, considering the nature of work involved in the present tender process. Therefore, the conditions prescribed by the tender inviting authority with respect to determining the quality of work cannot be relaxed merely on monetary consideration alone. Therefore, when the petitioner has not satisfied the qualifications which determine the quality of the work done by the petitioner, the mere lower quote cannot be the basis to give any benefit to the petitioner by

relaxing the criteria with regard to submission of documents. Therefore, the contention that the quote of the petitioner is the lowest alone cannot form the basis for conferring any benefit on the petitioner and, therefore, the said contention does not deserve any acceptance.

33. For all the reasons aforesaid, there is no infirmity in the impugned order passed by the 2nd respondent and, accordingly, the same is confirmed and this writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

23.03.2026

Index : Yes / No

GLN

To

1. The Superintending Engineer
   Highways Department
   Government of Tamil Nadu
   Construction & Maintenance Circle
   Salem – 7, Salem District.

2. The Divisional Engineer
   Highways Department
   Construction & Maintenance Circle
   Krishnagiri, Krishnagiri District.

M.DHANDAPANI, J.

GLN

PRE-DELIVERY ORDER IN
W.P. NO.7393 OF 2026

Pronounced on
23.03.2026

W.P. NO. 7393 OF 2026

M.DHANDAPANI, J.

This matter is listed today under the caption "For Being Mentioned" at the instance of the learned counsel for the parties.

2. It is brought to the notice of this Court that though the impugned order has been passed by the 1st respondent, however, in the order dated 23.03.2026, in the operative portion in para-33, there is a typographical error showing it to have been passed by the 2nd respondent. Therefore, it prayed that necessary correction may be made to the same and the order copy may be issued.

3. This Court perused the order dated 23.03.2026 and finds that the impugned order has been passed by the 1st respondent, however, it has been inadvertently typed as 2nd respondent in para-33 of the said order. Therefore, the word "2nd respondent" appearing in para-33 of the order dated 23.03.2026 shall stand to read as "1st respondent". Except for the above modification, the order dated 23.03.2026 stands intact.

M.DHANDAPANI, J.

4. Registry is directed to make the aforesaid correction in the order dated 25.11.2025 and issue order copy to the parties.

27.03.2026

GLN

W.P. NO.7393 OF 2026