



W.A.(MD)No.3195 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 22.01.2026

PRONOUNCED ON : 04.02.2026

CORAM:

THE HONOURABLE **DR.JUSTICE G. JAYACHANDRAN**
AND
THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD)No.3195 of 2025
and
C.M.P.(MD)No.19635 of 2025

Raudra Engineering Pvt.Ltd.,
(Formerly Known as Raudra Technocrats Pvt.Ltd.,)
Zion Z1, 1216-1218, Sindhu Bhavan Marg,
Bhodakdev, Ahmedabad,
Gujarat-380 054.

... Appellant

Vs.

- 1.Ministry of Ports, Shipping and Waterways,
Represented by its Secretary,
New Delhi.
- 2.The Chief Engineer,
V.O., Chidambaranar Port Authority,
Administrative Office, Harbour Estate,
Tuticorin.
- 3.Superintending Engineer,
Civil Engineering Department,
V.O.Chidambaranar Port Authority,
Administrative Office, Harbour Estate,
Tuticorin.



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4.Executive Engineer,
Civil Engineering Department,
V.O.Chidambaranar Port Authority,
Administrative Office,
Harbour Estate, Tuticorin.

5.M/s.Va Tech WABAG Ltd.,
Ramky Infrastructure Ltd.,
(Joint Venture),
WABAG House,
No.17, 200 feet Thoraipakkam-
Pallavaram Main Road,
Sunnambu Kolathur, Chennai,
Tamil Nadu-600 117-India.

... Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 28.11.2025 in W.P.(MD)No.33167 of 2025 on the file of this Court.

For Appellant	: Mr.Srinath Sridevan Senior Counsel for Mr.P.M.N.Bhagavath Krishnan
For Respondents	: Mr.R.Muthukumar (R1) Mr.R.Srinivas, Senior Counsel for Mr.N.Dilipkumar (R2 to R4)

JUDGMENT

(Judgment of the Court was delivered by **DR.G.JAYACHANDRAN, J.**)

The above appeal by M/s.Raudra Engineering Pvt. Ltd., is directed against the dismissal of the writ petition filed seeking issuance



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of a writ of certiorarified Mandamus in respect of the letter/ communication dated 17.11.2025 by the V.O.Chidambaranar Port Authority (in short 'VOCPA'), disqualifying the appellant herein, after evaluation of the technical bid, for not fulfilling the “Minimum Qualification Criteria” (MQC) stipulated in the eligibility requirements of the tender.

2.The tender, which is the subject matter of the appeal, was floated by VOCPA for establishment of 3 MLD desalination plant based on Seawater Reverse Osmosis at V.O.C. Port, Tuticorin and Operation and Maintenance for 5 years on Design, Build and Operate (DBO) mode. For the said project, Notice Inviting Tender (NIT) was published on 02.04.2025 calling offer from prospective bidders. The appellant M/s Raudra Engineering Pvt Ltd., is one of the participants in the tender.

3.The technical bids offered by the bidders were opened on 23.08.2025 and evaluated by the Technical Evaluation Committee (TEC) of M/s.Tamilnadu Water Investment Company Limited (TWIC) nominated as Project Management Consultant (PMC). After scrutiny of the documents submitted by the Appellant through CPP portal, the Chief



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Engineer of VOCPA on 03.09.2025 sought for certain clarifications/ documents to be furnished within 7 days from the date of communication. On considering the clarification and documents submitted by the appellant, the TEC, which met on 22.10.2025 rejected the technical bid offered by the appellant vide order dated 24.10.2025.

4.Challenging the rejection order dated 24.10.2025, the appellant filed W.P.(MD)No.30935 of 2025 alleging that without assigning reasons, the technical bid offered by the appellant herein was rejected by VOCPA. The said writ petition was disposed on 30.10.2025 with the following observations:-

“2. When the matter was taken up for hearing, the learned Standing Counsel appearing for the respondents 2 and 3 produced written instructions, wherein it has been stated as follows:

“Now on 28.10.2025, the petitioner submitted documents claiming to qualify in the tender based on the Minimum Qualification Criteria. Now, the matter would be placed before the Tender Committee again for recommendation. Based on the recommendation of the Tender Committee, the Price Bid would be opened.”

3. In view of the above communication, it is clear that the respondents 2 and 3 would take a fresh decision on the petitioner's



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qualification and proceed further in accordance with the recommendation of the Tender Committee.

5.The TEC met again on 14.11.2025 to consider the work completion certificate submitted by the appellant. The comment of M/s.TWIC nominated as Project Management Consultant was considered and after deliberation, TEC recommended to reject the technical bid of the appellant for not fulfilling MQC criteria and to open the price bid of M/s.Va Tech WABAG Ltd – Ramky Infrastructure Ltd- JV. The decision of TEC to reject the technical bid of the appellant came to be communicated by the Executive Engineer of VOCPA vide order dated 17.11.2025, which is challenged in W.P.(MD)No.33167 of 2025. The said writ petition was dismissed and the same is impugned in this appeal.

6.The Learned Single Judge dismissed the writ petition, holding that the recommendation of the Project Management Consultant (PMC), which is an expert body cannot be brushed aside. The Minimum Qualification contains two ingredients. The first ingredient is successful completion of similar works during the last seven years. Similar work means and includes design, construction, erection, installation, testing



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and commissioning of seawater desalination plant with reverse osmosis process. The second ingredient is the work completion certificate by the department mentioning the place, where the work was executed in full along with TDS certificates. The writ petitioner had not fulfilled both the ingredients, hence the writ petitioner has not satisfied the MQC. Therefore, the petitioner cannot demand that it should be considered for the financial bid.

7.The learned Senior Counsel for the appellant primarily, contended that the third respondent in order to reject the bid offered by the appellant is continuously changing the goal post and inventing one or the other reason. Firstly, on 24.10.2025, the technical bid submitted by the appellant was rejected on the ground that the experience certificate for design was not provided. When the above certificate was provided, it was not considered and the bid was rejected on 17.11.2025 without assigning any reason. When this non-speaking order of rejection was challenged by the appellant, the respondents produced the internal minutes, dated 14.11.2025 of the TEC, recording the rejection of the appellant's technical bid, because the experience certificate does not show that the work done was in respect of seawater desalination. When



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the appellant produced records to show all the works done by it, are in respect of seawater desalination, the respondents shifted to a new reason that TDS for the work was not produced.

8. According to the learned counsel for the appellant, the tender document does not stipulates production of design. The previous experience of the appellant in the Kingdom of Omen is in respect of seawater desalination and documents to prove the same were produced. The Omen Government does not impose Tax on income, therefore production of TDS certificate does not arise. This had been explained by the appellant in clear terms with relevant documents. There is a patent illegality in the decision making process. Therefore, the learned Single Judge ought to have quashed the rejection order by allowing the writ petition. However, the learned Judge has misapplied the dictum of the Supreme Court laid in ***N.G.Projects Limited –vs- Vinoth Kumar Jain and others reported in 2022(6) SCC 127***. The decision of the respondent being irrational, illegal and suffers procedural impropriety by changing the goal post taking different stance at different stage, the said action falls within the scope of judicial review as laid by the Hon'ble Supreme Court in ***Tata Cellular –vs- Union of India (1994 (6) SCC 651***.



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9.The Leaned Senior Counsel for the appellant further submitted that the respondents in their counter for rejecting the bid had assigned new reasons such as:

- a) the documents produced did not substantiate EPC (Engineering, Procurement and Construction):
- b) appellant failed to produce TDS:
- c) EMD is paid in the name of Raudra Technocrats Pvt., Ltd., instead of Raudra Engineering Pvt Ltd: and,
- d) failed to furnish design details.

The practice of improving the case in the course of litigation is depreciated by the Courts time and again following the dictum laid in the case of *Mahindhr Dingh Gill and another vs. Chief Election Commissioner, New Delhi and others* [(1978) 1 SCC 405].

10.The rival bidder namely, M/s.Wa Tech WABAG Ltd - Ramky Infrastructure also have work experience only as Build, Own and Operate (BOO) similar to the appellant. No full work completion certificate was produced by them, however the respondent has accepted their technical bid. This clear discrimination makes the decision of the respondent to reject the appellant's offer, illegal.



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11.The learned counsel for the appellant relied upon the following decisions in support of his submission:

1.Mahindhr Dingh Gill and another vs. Chief Election Commissioner, New Delhi and others, [(1978) 1 SCC 405].

2.Ganpati RV-Tallers Alegria Track Private Limited vs. Union of India [(2009) 1 SCC 589]

3.Surguja Bricks Industries Company vs. State of Chhattisgarh, [2025 SCC online SC 2916]

4.Meerut Development, Authority Vs. Association of Management Studies and another [(2009) 6 SCC 171]

12.Per contra, the Learned Senior Counsel for the respondents contended that the appellant was found not qualified, since it had not satisfied MQC. Even after giving more than two opportunities to produce documents, which could satisfy MQC requirements mentioned in the tender, the documents were produced by the appellant without design details, without proper completion certificate of similar work and TDS failed to fulfil the tender conditions. Hence, the expert body recommended that the technical bid offered by the appellant to be rejected. Accordingly, the tenderer had decided to reject the technical bid of the appellant.



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13.The allegation of arbitrariness and shifting the goal post in deciding the appellant's bid is baseless. The appellant had not produced documents to satisfy MQC in spite of affording opportunities. Each time, the appellant was able to produce incomplete and piecemeal document.

14.The completion certificate given by the appellant is from an Oman Agency to the JV partner of the appellant and not to the appellant directly. The estimated cost of the Seawater Reverse Osmosis Desalination project is Rs.67,44,09,720/-. MQC prescribes that work completion certificate must be for the successful completion of similar work in the last 7 years ending 31.03.2025, if it is one work, the value must be not less than 80% of the estimated cost or if it is works, then each value not less than 50% of the estimated costs or if it is three works, the value must be each not less than 40% of the estimated costs. In the tender document, it is specifically stated that the tender is for establishment of 3 MLD Desalination Plant based on seawater reverse osmosis at VOC Port and Operation and Maintenance for 5 years on Design, Build and Operate (DBO) Mode.



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15.The word ‘similar work’ means and includes design.

Whereas the completion certificate dated 13.12.2021 furnished by the appellant is for a project Build, Own and Operate (BOO) water desalination plants in Musandam Governate. This certificate is silent about the experience of the appellant in designing of seawater desalination plant. The certificate also indicates that the Operation and Maintenance stage ends only on 14.11.2028 and the EPC stage alone got completed on 30.09.2021. Thus, the certificate purported to be a completion certificate is only for BOO and that too for EPC stage. It is not a proper completion certificate required under the project for Design, Build and Operate (DBO) and Operation and Maintenance (O & M).

16.The bills produced by the appellant are the bills for sale of water from the plant. It does not reflect the value of the full work executed, which is required under the tender MQC. The prior work done by JV partner is only to do rehabilitation and installation of existing desalination plant and designing of only portion of the project like seawater intake structure pipeline, water pipeline and supply of electricity in power station transformers and collecting charges for the supply of water from the desalination plant.



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17.Heard both the learned counsel. Documents perused.

18.The scope of judicial review in respect of Tender process floated by Public Sector is limited. The wisdom of the expert committee and the decision based on the report of the expert committee, cannot be interfered unless there is a patent illegality. Hence, the point for consideration is whether the rejection of appellant's technical bid is on account of non-fulfilment of MQC or for any other extraneous reasons.

19.In this case, there were only two bidders. The TEC has recommended to disqualify the appellant, namely M/s.Raudra Technocrats Private Ltd- OMAN, National engineering and Investment Company – JV (the appellant herein) and to open the price bid of the pre-qualified bidder M/s.Va Tech WABAG Ltd – Ramky Infrastructure Ltd – JV. The reason for disqualifying the Appellant is non-fulfilment of MQC in the tender document.

20.The Notice Inviting Tender (NIT) for establishment of 3 MLD Desalination Plant based on Seawater reverse osmosis at VOC Port

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– Maintenance and Operation for 5 years on DBO mode prescribes the following Minimum Qualification Criteria (MQC) for the bidders:-

“3. MINIMUM QUALIFYING CRITERIA:

The Tenderer shall meet the minimum qualifying criteria as follows:

Work Experience: *The tenderer should have successfully completed **similar work** as detailed below during the last Seven year upto 31.03.2025 with either of the following:-*

Three works, each costing not less than 40% of Estimated Cost

(ie) Rs. 26.97.63,888/-

(Excluding GST or Equivalent Tax)

(or)

Two works, each costing not less than 50% of Estimated Cost

(i.e) Rs. 33,72,04,860/-

(Excluding GST or Equivalent Tax)

(or)

One work costing not less than 80% of Estimated Cost (i.e)

Rs. 53,95,27,776/-

(Excluding GST or Equivalent Tax)

Similar Work

Similar Work means "Design, Construction, Erection, Installation, Testing and Commissioning of sea water desalination plant in State Govt. / Central Govt. / PSU's Sector with Reverse Osmosis (RO) process



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b) if the work completion certificate furnished is from other than Govt. Departments by the bidder to fulfill the requirement of MQC, the same shall be supported with TDS Certificate (FORM-16A) issued by the department where the work was executed for full executed amount of the work otherwise such work experience shall not be considered.”

21.In this case, in the first meeting of the Tender Evaluation Committee (TEC), the documents produced by the appellant for technical bid were considered. Certain shortfalls were found and clarification from the appellant had been sought. The letter of the Chief Engineer, VOCPA dated 30.09.2025 seeking clarification from the appellant reads as under:-

“ a.Work completion certificate clearly mentioning the total value of work, completion, work order and the details related (Design details of Sewage (sic) [to be read as 'seawater']) treatment plant to the work "Design, build, own and Operate Water, Desalination plants in Musandam Governate that's includes major plants at Khasab, Dibba and Bukha in the capacity of 10,000 cum / day, 100 cum / day, 1000 cum / day". And proof of official tax deduction withholding tax certificates or payment proofs issued by the Sultanate of Oman to M/s. ONEC for the above mentioned work.

b.Clarification on EMD / Bank Guarantee paid in the name of



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M/s. Raudra Technocrats Private Limited, but the bid submitted by M/s. Raudra Engineering Private Limited, also it was mentioned as M/s. Raudra Technocrats was former name, however both the companies Raudra Technocrats and Raudra Engineering are alive.

c.The MS Project or Equivalent chart indicating the programme of work and material planning chart for all the works indicated in the Tender.

d. Information on Current litigation for both the JV partners.”

22.The response of the appellant reveals that the desalination work at Oman is on Build, Own and Operate mode (BOO). The work completion certificate will be given only on completion of the project period (ie) 14.11.2028. The certificate issued does not specifically mention that the work includes design component.

23.However, the contention of the appellant is that in an international construction contract, a turnkey contract means, the contractor assumes complete responsibility to the client for constructing productive installations and ensuring that they operate effectively before turning them over to the client. Complete responsibility would include furnishing of all plant labour, materials, supplies equipment, transportation, supervision, technical, professional and other services.



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The contractor is under an obligation to perform all operations relating to design, manufacture, delivery installation and the design and execution of building or engineering works as contracted.

24.A turnkey contract will get completed only on the expiry of the period agreed to turn the key to the client. Whereas, Engineering Procurement and Construction (EPC) stage is the date of completing the construction by integrating the design, engineering and procurement of equipments. In case of Turnkey projects, work completion certificate will be issued only on the expiry of the date agreed to turn the key. For proof of similar work done, certificate issued at EPC stage indicating the successful commission of the plant is sufficient. The similar work completion certificate submitted by the rival bidder M/s WA Tech WABAG Ltd – Ramky Infrastructure Ltd –JV is accepted by the respondents even though, the similar work it carried for Mangalore Refineries Ltd., is also a Turnkey contract for a period of 10 years for Maintenance and Operation, which commenced on 11.04.2022 and will end only on 10.04.2032.



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25.To verify, the above contention, this Court directed the respondents to produce the relevant file. On perusal of the work completion certificate, dated 25.09.2023 issued by Mangalore Refinery and Petrochemicals Limited (MRPL) shows that M/s.VA Tech WABAG Limited had been awarded the Turnkey contract for 30 MLD Seawater Reverse Osmosis desalination project for EPC value of Rs. 419,48,42,411/-. The contract was awarded on 21.01.2018 and the plant on installation was commenced on 30.12.2021. The Operation and Maintenance for the period of 10 years is commenced on 11.04.2022.

26.The 'scope of work' as per the certificate issued by MRPL contains two components. One 'EPC component' which is for developing, designing, engineering procurement, factory testing, transporting to site, supply, erection, etc.. Another is 'Operation and Maintenance Component' for comprehensive operation and maintenance with all spares and consumable, including maintenance for a period of 10 years.

27.We find the work completion certificate produced by M/s.VA Tech WABAG Limited contains all necessary details satisfying



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MQC unlike the certificate issued by the appellant. The submission of the appellant that the respondents herein are shifting the goal post stating fresh reasons for rejection of the appellant's bid is unsustainable for the simple reason that the tender conditions regarding MQC clearly mandate submission of prior experience of similar work, which includes design. It also mandates the value of the tender of the prior work.

28. In this case, since the technical bid offered by the appellant did not contain the details in specific, the Tenderer has sought clarifications from the appellant. Had the appellant provided the required details along with work completion certificate with clear and full details, there would have been no necessity to call for further details. Since the appellant had been submitting the required details in piecemeal, the tenderer had been asking for specific details about the design, experience, value of the previous work and nature of the previous work. Even now, the details given by the appellant lacks clarity regarding the details sought. Without furnishing the work completion certificate with all the required details, the tenderer cannot presume satisfaction regarding previous similar work.



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29.The Tenderer, on verifying the technical bid of M/s.Va Tech WABAG Ltd.,-Ramky Infrastructure Ltd., being satisfied that the work completion certificate provides all necessary details mentioned in MQC, had accepted it and proceed to open the price bid. The wisdom of the tenderer in this aspect cannot be interfered under the guise of judicial review.

30.Hence, we dismiss this Writ Appeal confirming the order of the learned Single Judge. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

[G.J., J.] & [K.K.R.K., J.]
04.02.2026

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