

(2017) 06 MAD CK 0038

In the Madras High Court

Case No : 828 of 2017 and C M P (MD) No 5692 of 2017

The Chief Engineer TWAD Board, Madurai

APPELLANT

Vs

K.K.P.Constructions through its Managing Partner
Kadarkaraiyapillai S/o.Subbaiah Pillai, & Anr.

RESPONDENT

Date of Decision : 23-06-2017

Acts Referred:

Citation : (2017) 06 MAD CK 0038

Hon'ble Judges : Indira Banerjee, T.S.Sivagnanam

Bench : DIVISION BENCH

Advocate : Indira Banerjee, T.S.Sivagnanam

Judgement

1. This writ appeal is directed against the order, dated 26.05.2017, passed by the Single Bench in W.M.P.(MD) No.7723 of 2017 in W.P.(MD)

No.10064 of 2017, restraining the appellant / first respondent from allotting any work to the successful tenderer.

2. The facts as pleaded in the writ petition are briefly that the first respondent in the writ petition being the appellant before us had issued tender for

out sourcing of operation and maintenance of CWSS to Melur, Avaniapuram and Thirumangalam Municipalities, A.Vellalapatti, Vilangudi, Paravai,

Thirunagar, Alanganallur, Palamedu Town Panchayats and 1430 Rural habitation in Kottampatti, Melur, Madurai East, Madurai West,

Alanganallur, Vadipatti, Thirumangalam, Thirupparankundram Unions in Madurai District and Singampunari Town Panchayats in Sivagangai

District Package II (05.04.2017 to 31.03.2018) - Infrastructures of Madurai West Union, Paravai Town Panchayat and Vilangudi Town

Panchayat in Lr.No.F.Melur CWSS-Pack II-Part III/SDO II (CW) / 2017-2, dated 06.04.2017.

3. Pursuant to the tender notification, the first respondent / writ petitioner applied along with others. The technical bid was opened on 23.03.2017

and later on 05.04.2017, the price bid was opened.

4. According to the first respondent / writ petitioner, even though the first respondent / writ petitioner had allegedly quoted Rs.96,00,000/-, which

was 19.89% less than Rs.1,19,84,148/- fixed by the appellant and the second respondent had quoted 5.11% i.e., Rs.1,13,71,200/- less than the

amount fixed, the tender application of the first respondent was rejected.

5. It appears that the interim order restraining the appellant / first respondent in the writ petition from awarding the work order to the successful

tenderer was passed on the first day itself notwithstanding the time sought for by the counsel appearing on behalf of the appellant to obtain

necessary instructions.

6. It is well settled that price bid alone is not a factor relevant for acceptance or rejection. The technical expertise has also to be considered by a

body with requisite expertise.

7. May be as per the estimation of the writ petitioner, the writ petitioner had the requisite qualification and experience. However, it is not for this

Court to embark upon comparative assessment of the merits of the different tenderers. This Court does not sit in appeal over a decision of a duly

constituted Tender Committee. Be that as it may, the interim order was apparently for two weeks. The appeal is infructuous since the interim order

has not been extended and the interim order itself has expired and the work order has been issued to the 2nd respondent on 06.04.2017. It will be

open to the appellant to proceed with the work.

8. The writ appeal is disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.