

SUPREME COURT OF INDIA

Secretary, P.W.D.

Vs

D.P. Construction

(B.P. Singh and Altamesh Kabir JJ.)

04.08.2006

JUDGMENT

1. We have heard counsel for the parties.

2. Special leave granted.

3. The order impugned in this appeal by special leave is the order passed by a Division Bench of the High Court of Judicature at Madras in Writ Appeal No. 2484/2004 whereby the writ appeal preferred by the Government has been dismissed upholding the direction of the learned Single Judge that the appellants shall despatch tender notices to the respondent herein in the pre-stamped covers offered by him, by registered post with acknowledgment due. Counsel for the appellants submitted that under the Tamil Nadu Transparency in Tenders Rules, 2000 procedure has been prescribed laying down the manner in which the notice of tenders has to be given to the concerned parties. In particular, he relies upon Rules 8, 9, 11 and 12 of the said Rules and submits that depending on valuation of the tender different modes of publication have been provided under the Rules which include, in the case of tenders below Rs. 10 lakhs, publication on the notice board and intimation to the registered tenderers by post under certificate of posting. He further submitted that it will be difficult for the department to maintain an account of the pre-stamped covers sent by the registered tenderers. Though we are concerned only with one contractor in this case, others may also ask for a similar facility. Page 3528 He submitted that The Tenders Rules, 2000 provide for adequate publicity being given to the notice inviting tenders.

4. Counsel for the respondent on the other submitted that the Rules are followed in their breach and very often the notice inviting tenders are not displayed on the notice board as required by the Rules. It may be that the Rules are not being followed scrupulously but that does not justify a special rule for a particular tenderer alone. We, therefore, allow this appeal and set aside the judgment and order of the Division Bench of the High Court.

5. However, we direct the authorities concerned to see to it that the Tender Rules, 2000 are scrupulously followed. The Court will take a serious view of the matter if it comes to its notice that tender notices are published or notified in a selective manner, or are not published in the manner required by the Rules. If need be, the government may amend the Rules to enforce strict compliance

thereof. The appeal is allowed. No order as to the costs.