



KERALA STATE ELECTRICITY BOARD Ltd

(Incorporated under the Companies Act, 1956)

Registered Office: Vidyuthi Bhavanam, Pattom,

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ABSTRACT

Manufacture and supply of 8m/140kg PSC poles - Special Leave Petition No.6908-6909/2022 filed by M/s. Sivasakthi Engineering and Fabricators (P) Ltd. and others before the Hon'ble Supreme Court of India - Judgement dated 01.05.2023 of the Hon'ble Supreme Court - Sanctioned - Orders issued.

Corporate Office Supply Chain Management

BO (FTD)No.446/2023(PC/SCM/PSC poles/8m-140kg/2023) Thiruvananthapuram, Dated: 16.10.2023

- Read: 1. Judgement on WP (C) No.3850 of 2021 of Hon'ble High Court of Kerala dated 13.07.2021.
2. SLP No.6908-6909/2022 filed by M/s. Sivasakthi Engineering and Fabricators (P) Ltd at the Hon'ble Supreme Court of India.
3. Judgement dated 01.05.2023 of the Hon'ble Supreme Court of India.
4. Legal opinion tendered by Adv. P.V. Dinesh, Counsel for KSEBL at Hon'ble Supreme Court of India.
5. Note No. LAI.1219/2021 dated 26.05.2023 of the LA&DEO.
6. Remarks from FA vide No. FA/Tender 3/76/2023 dated 27.07.2023.
7. Note No. PC/SCM/PSC Poles/8m-140kg/2023 dated 18.08.2023 of the Chief Engineer (SCM) submitted to the Full Time Directors (Agenda No.9-10/2023).

ORDER

KSEBL invited e-tenders for the manufacture and supply of 5,45,650 Nos 8m/140kg PSC Poles and 2,61,479 Nos 9m PSC Poles vide Bid No. SCM.eP-46/2020-21 dated 22.10.2020 to 23 Electrical Circles excluding Sreekandapuram and Kalpetta under Southern, Central, Northern and North Malabar Regions for a period of 2 years. 11 suppliers were pre-qualified in the Bid including 9 MSME suppliers in Kerala. Meanwhile a Writ Petition, WP(C) No.3850 of 2021 was filed before the Hon'ble High Court of Kerala as Public Interest Litigation against the tendering of PSC Poles of 8m with 140 kg working load by KSEBL after the opening of the price bid of the above bid. The Hon'ble High Court had quashed the portion of the above tender documents concerning 8m PSC Poles with 140 Kg working load vide its Judgement dated 13.07.2021. Due to the said Hon'ble High Court order, Purchase Orders with 8m/140kg couldn't be placed and hence KSEBL switched on to the use of new 8m/200kg PSC poles thereafter.

Then a Special Leave Petition No.6908-6909/2022 was filed by M/s. Sivasakthi Engineering and Fabricators (P) Ltd., M/s. Venad Structurals, M/s. Raphael & Co., M/s. Vellackamattathil Industries and M/s. Anchor Structurals before the Hon'ble Supreme Court of India on 20.04.2022 against the judgement dated 13.07.2021 of the Hon'ble

High Court requesting to permit KSEBL to purchase the already manufactured 15,723 Nos. of 8m/140kg PSC Poles available with the petitioners.

The Hon'ble Supreme Court, vide its Order dated 03.02.2023, directed KSEBL to place on record a copy of the expert opinion with regard to the nature / weight of the poles required for the State of Kerala given the peculiar geography of the State, obtained from the Indian Institute of Technology (IIT), Madras or any other reputed Engineering College. Accordingly Expert Report was obtained from the nearby reputed Government Engineering College, CET, Trivandrum and submitted to the Hon'ble Supreme Court. Based on the Expert Report, the Hon'ble Supreme Court, vide judgement dated 01.05.2023 was pleased to allow the appeals and set aside the impugned judgement of the Hon'ble High Court of Kerala in WP (C) No.3850 of 2021 of dated 13.07.2021 (quashing that portion of 8m PSC poles with 140kgs working load) and pronounced that KSEBL would be entitled to procure the material on the basis of the advertisements.

Legal opinion sought in this regard and the Senior Law Officer, in charge of LA&DEO as per note read as 5th above has opined that, by the authoritative pronouncement of the Apex Court the Board is entitled to procure and use 8m/140kg PSC poles and directed to take further action accordingly.

Accordingly willingness sought for from all the suppliers who had quoted and pre-qualified in the Bid No. KSEB/SCM/eP.46/2020-21 dated 22.10.2020, including the above 5 petitioners, that whether they are willing to supply the 8m/140kg PSC Poles if, any, available with them, at the L1 rates of the Bid No: KSEB/SCM/eP.46/2020-21 dated 22.10.2020 in the respective circles quoted by them, without any price escalation. In which, all the suppliers except M/s. Gautam Cement Works and M/s. Kothamangalam Aggregates, have informed their willingness to supply 8m/140kg PSC Poles available with them, at the L1 rates, without price escalation.

There is an average saving of Rs.732.50 per pole between the then L1 rate of 8m/140kg PSC pole and that of current 8m/200kg pole. On procuring the entire 21,142 Nos. of 8m/140kg PSC Poles, in compliance to the judgment, there will be a saving of Rs.1,51,68,367/- to KSEBL based on the L1 rate. This savings is based on the L1 rates of both tenders at the due date of tender which will again increase when compared with the current escalated price of 8m/200kg poles. No escalation be given for the above 21,142 Nos of ready cast poles of 8m/140kg.

This purchase of 8m/140kg PSC poles is proposed by deducting corresponding No. of 8m/200kg PSC poles from the ongoing P.O. quantity of the respective suppliers in respective Circles for supplying 8m/200kg poles, for limiting the total quantity within the Purchase Plan quantity.

The total financial commitment for the purchase is ₹4,50,88,846/- (Rupees Four Crore Fifty Lakhs Eighty Eight Thousand Eight hundred and Forty Six only)(excluding GST) and ₹5,32,04,838/- (Rupees Five Crore Thirty Two Lakhs Four Thousand Eight Hundred and Thirty Eight only) (including GST).

Hence the matter was submitted to the Director (D, IT, S & SCM) vide Note

No.PC/SCM/PSC Poles/8m-140kg/2023/2047 dated 12.07.2023 with recommendation to place Purchase Orders with the above 9 suppliers for the supply of 21,142 Nos of 8m/140kg PSC poles available with them at the rates as detailed below in the respective circles subject to the condition that corresponding No. of 8m/200kg PSC poles will be deducted from the ongoing P.O. quantity of the respective circles.

Table 1

Sl. No.	Name of supplier.	No. of poles with them	Amount ₹
1	M/s.Vellackamatathil Industries	2,200	49,54,000
2	M/s. Venad Structurals	2208	47,92,200
3	M/s. Raphael & Co.	1800	35,01,000
4	M/s. Anchor Structurals	2325	45,65,875
5	M/s. Sivasakthi	5500	1,11,32,500
6	M/s.Pinarayi Industrial Co-Operative Society Ltd.	1800	40,75,000
7	M/s.ImperialTrading Co.	3219	72,71,721
8	M/s. Pooja Industries	840	19,27,800
9	M/s. Jyothi Construction Company	1250	28,68,750
Total		21,142	4,50,88,846

And the Director (D, IT, S & SCM) directed to place the matter before the Full time Directors. The remarks of FA was obtained vide No. FA/Tender 3/76/2023 dated 27.07.2023.

Accordingly the matter was placed before the Full Time Directors as per note read as 7th above. Having considered the matter in detail, the Full Time Directors through circulation has passed the following resolution.

RESOLVED to authorize the Chief Engineer (SCM) to place Purchase Orders for the supply of 21,142 nos. of 8m/140kg PSC poles available with the 9 suppliers who were

pre-qualified and willing to supply the poles at the L1 rate of the Bid No. KSEB/SCM/eP46/2020-21 dated 22.10.2020 in the respective circles as per Table 1 above without price escalation, involving a total financial commitment of ₹4,50,88,846/- (Rupees Four crore Fifty Lakh Eighty Eight Thousand Eight hundred and Forty Six only) (excluding GST), subject to the condition that corresponding No. of 8m/200kg PSC poles will be deducted from the ongoing Purchase Order quantity of the respective Electrical Circles, in compliance to the judgement dated 01.05.2023 of the Hon'ble Supreme Court of India.

Orders are issued accordingly.

By Order of the
Full Time Directors

sd/-

LEKHA G
Company Secretary

To:

The Chief Engineer (SCM)

Copy to: The Chief Engineer (IT,CR&CAPS)/ Financial Advisor/ LA&DEO/ Chief Internal Auditor/ Company Secretary

The TA to the Chairman & Managing Director / Director (Generation-Civil) / Director (Distribution, Safety, SCM & IT) / Director (Transmission, SO & Planning)/ Director (Generation - Electrical, REES, SOURA, Sports & Welfare)

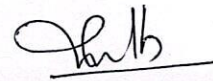
The PA to the Director (Finance & HRM)

The Sr.CA to the Secretary (Administration)

The RCAO/ RAO

Stock File.

Forwarded / By Order



Assistant Executive Engineer