



CNR: KAHC010654732024

NC: 2026:KHC:37803
WP No. 32725 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 32725 OF 2024 (GM-RES)

BETWEEN:

M/S YOJAKA (INDIA) PVT. LTD.,
2ND FLOOR, ABCO TRADE CENTRE,
NH-66, KOTTARA CHOWKI,
MANGALORE - 575 006
REPRESENTED BY ITS MANAGING DIRECTOR
JAGADISH BOLOOR
(UNDER REGISTRATION COMPANIES ACT, 1956)

...PETITIONER

(BY SRI. VENUGOPAL M S., ADVOCATE)

AND:

1. THE EXECUTIVE ENGINEER
I.D., INLAND WATER TRANSPORT DEPARTMENT,
PORT AND FISHERIES DIVISION,
2ND FLOOR, SHAMILI HALL,
UDUPI - 576 101.
2. STATE OF KARNATAKA,
REPRESENTED BY
PRINCIPAL SECRETARY
ROOM NO.320, 3RD FLOOR,
VIDHANA SOUDHA,
BENGALURU - 01.

...RESPONDENTS

(BY SRI. BHARATH KUMAR V., ADVOCATE FOR R1;
SRI MOHAMMED JAFAR SHAH, AGA FOR R2)

Digitally signed
by SHWETHA
RAGHAVENDRA
Location: HIGH
COURT OF
KARNATAKA



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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO-QUASH THE ORDER DATED 30.10.2024 FOR CANCELLATION AND FORFEITURE OF EMD OF THE TENDER ALLOTTED TO THE PETITIONER VIDE ANNEXURE-P PASSED BY THE RESPONDENTS; DIRECT THE RESPONDENT TO ALLOW THE PETITIONER TO CONTINUE AND COMPLETE THE SAID TENDER WORK ALLOTTED TO HIM BY COLLECTING THE SECURITY DEPOSIT AT THE RATE OF 3 PERCENT ON THE TENDER AMOUNT, ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. Petitioner is before this Court seeking for the following reliefs:

- a) *Quash the order dated 30.10.2024 for cancellation and forfeiture of EMD of the tender allotted to the petitioner vide Annexure-P ಸಂ: ಕಾನಿಜಂ: ಬಂಮೀವಿ: ಉಡುಪಿಎಇ: Capital Dredging: 2024-25/612 passed by the respondents.*



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- b) Direct the respondent to allow the petitioner to continues and complete the said tender work allotted to him by collecting the security deposit at the rate of 3% on the tender amount.*
- c) And grant such other order or directions has this Court deems fit to grant under the circumstances of the case in the interest of justice and equity.*

2. The petitioner is engaged in the execution of the project works relating to Marine, Shipping, Civil Constructions, Dredging, Bridge Construction, Disaster Management works etc.,
3. Respondent No.1, having invited tender for "Capital Dredging at Old Port, Mangaluru, the petitioner participated and was successful. The acceptance letter was required to be issued, but was not. Hence, the petitioner followed up for issuance of such acceptance letter, which came to be finally issued on 10.07.2024.
4. Insofar as the security deposit was concerned, the petitioner, in terms of the contract was required to make payment of security deposit at 3%. But



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however, since there is a demand made for 5%, the contract could not be executed and it is in that background, that the petitioner approached this Court seeking for the aforesaid reliefs, when the EMD submitted by the petitioner was also forfeited by the respondents.

5. Notice having been issued, Sri.Bharath Kumar.V., learned counsel has entered appearance for Respondent No.1 has today filed a memo stating that the entire project has now been shelved since the funding to the said project has been withdrawn by the Government of India, Ministry of Ports, Shipping and Waterways on 04.06.2024. In that view of the matter, he submits that the work cannot be carried on since there is no funding for the same.

6. If that be so, then the question of either calling upon the petitioner to submit a security deposit of 5% or 3% would not arise and if the work is not to go on,



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on account of lack of funding on part of the respondent, the petitioner cannot be held responsible for the same, forfeiting the EMD. There was a dispute as regards the percentage of security and a Co-ordinate Bench of this Court, vide order dated 17.02.2026, taking note of the submission of the learned counsel appearing for the petitioner that he is willing to offer 5% security deposit had called upon the respondent to obtain instructions and make his submission.

7. It is thereafter that today, it is submitted that there is no funding. In that view of the matter, the respondents cannot retain any amounts, which have been deposited by the petitioner with the respondent. As such, this Court pass the following:



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ORDER

- i) Writ petition is partly allowed.
- ii) The cancellation of the tender is upheld.
- iii) The forfeiture of the EMD made by the respondent is set aside.
- iv) The EMD amounts is directed to be refunded to the petitioner within a period of three weeks from the date of receipt of the copy of this order.

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**

DH
List No.: 1 Sl No.: 30