



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 1858 OF 2025 (GM-TEN)

BETWEEN:

1. M/S L V TRADERS
HAVING ITS REGISTERED OFFICE:
AT JOSEPH NAGAR, BEHIND CHURCH
PROPRIETORSHIP WARD NO 12
SAGAR, SHIVAMOGGA - 577 401
REP BY ITS PROPRIETRIX
SMT. KRISHNAVENI
W/O B. PARSHURAM
AGED ABOUT 44 YEARS

...APPELLANT

(BY SRI. NATARAJA BALLAL A.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
SOCIAL WELFARE DEPARTMENT
REPRESENTED BY PRINCIPAL SECRETARY
VIKASA SOUDHA, S R NAGARA
BENGALURU - 560 001
2. EXECUTIVE DIRECTOR
KARNATAKA RESIDENTIAL EDUCATIONAL
INSTITUTIONS SOCIETY,
BANGALORE
NO.8, 6TH FLOOR

Digitally
signed by
VEERENDRA
KUMAR K M

Location:
High Court of
Karnataka



CUNNINGHAM ROAD
BENGALURU - 52

...RESPONDENTS

(BY SMT. NAMITA MAHESH B G, AGA FOR R1 &
SRI SRINIVASA C, ADVOCATE FOR R2)

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT READ WITH RULE 27 OF THE WRIT
PROCEEDINGS RULES PRAYING TO SET ASIDE THE ORDER
DATED 19/11/2025 IN WP NO.27677/2025 AND ALLOW THE
APPEAL.

THIS APPEAL, COMING ON FOR PRELIMINARY
HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN
AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present appeal impugning an order dated 19.11.2025 passed by the learned Single Judge of this Court in W.P.No.27677/2025 (GM-TEN) [**impugned order**], dismissing the said writ petition.

2. The appellant had filed the said writ petition, (i) impugning an order dated 03.09.2025 deciding to forfeit the earnest money deposit [**EMD**] and debarring the appellant from participating in the re-tender; (ii) seeking release of the EMD of ₹23,95,540/-, which



was forfeited; and (iii) seeking a direction to permit the petitioner to participate in future tenders.

3. The appellant is a proprietorship concern and engaged in the procurement and supply of food and food products. Respondent No.2 had issued a notice dated 07.04.2025 inviting tenders for supply of food and vegetable items to residential schools and colleges in Shivamogga District at an estimated value of ₹23,95,54,029/-.

4. The appellant had challenged the tender conditions, including the eligibility criterion that the average annual turnover of the preceding three financial years must equal the bid amount. The appellant also challenged sub-clause 3.7(iv), which restricts bidders from quoting below 90% of the estimated bid value. However, notwithstanding the said conditions, the appellant participated in the bidding process and quoted an amount ₹21,55,98,625.99. Concededly, the said amount was ₹0.01 (1 paisa) below the minimum amount ₹21,55,98,626/- that could be quoted. Since the bid furnished by the appellant was below the permissible threshold of 90% of the estimated value, the



appellant's bid was rejected and the tender for Shivamogga District was recalled. Subsequently, a Work Order dated 22.08.2025 was issued to Bijapur Central Co-operative Wholesale Stores Ltd. Further a decision was taken by respondent No.2 at a meeting held on 03.09.2025 to forfeit the EMD of ₹23,95,540/- furnished by the appellant and to debar the appellant from the re-tendering process.

5. Thereafter, the appellant submitted a representation dated 09.09.2025 to the Commissioner and Chairman of the Food Procurement Tender Committee, Social Welfare Department, Government of Karnataka, *inter alia*, contending that the marginal difference of one paisa was not intentional. The appellant also tendered an apology for the mistake.

6. At this stage, it is relevant to refer to Clause 3.7 of the tender conditions. The same is set out below.

"3.7 Second Cover - Financial Bid

- i. Only commercial/financial offer shall be uploaded under "Item wise Bid Financial Offer shall be made in the prescribed format at e-procurement portal.
- ii. The end price quoted shall include GST, cost of package, transportation and delivery at destination, as applicable. The price quoted will be valid for 2 years tender period.



- iii. The Rice and Wheat will be supplied by Food Corporation of India (FCI) through PDS System; If there is any disruption in the supply of PDS Rice and Wheat, the same will be procured from the successful bidder with competitive/ relevant price decided by the Tender Scrutiny Committee (TSC) & Tender Accepting Committee (TAC).
- iv. The total bid value offered shall not exceed the estimated bid value or shall not be 10% below the estimated bid value, such offers will be summarily rejected at the financial stage of evaluation.

NOTE:

- For the calculation of 90% of the amount put to tender, consider Page No.3 table, Sl.No.2 Amount put to tender.
- The amount put to tender is Rs.23,95,54,029/-, the bidder should not quote the amount less than Rs.21,55,98,626.00/- (90% of the amount put to tender).
- If the bidder quotes Rs.21,55,98,625.99/- the bid will be rejected at financial evaluation since the total amount is less than 90% of the estimated bid value.
 - a) Even though KPPP Portal declares respective bidders as L1, the bid will be rejected and the tender is recalled for this district.
 - b) If the bidders intentionally/purposely/typo malifies the bid, in such cases
 - Earnest Money Deposit (EMD) will be forfeited.
 - The respective bidders are not allowed to participate in retender and will be rejected.
 - Should compulsory provide an undertaking in the form of an Affidavit as per Annexure-I



and upload <https://kppp.karnataka.gov.in>.
(Rs.100/- Stamp paper with duly notarized)
(Consider this has a mandatory document
for Technical Evaluation)

- v. The comparison of total amount quoted by bidders is based on the provisions of Karnataka Transparency in Public Procurement (KTPP) Act 1999 and Rules 2000."

7. There is no ambiguity in the tender conditions. It was clearly provided that a bid below ₹21,55,98,626/- was not permissible. The tender conditions explicitly noted that if a bidder quoted ₹21,55,98,625.99, the bid would be rejected. Additionally, the note to clause 3.7 provides that if the bidder had "intentionally/purposely/typographically malform the bid" the EMD would be forfeited, and the bidders would not be allowed to participate in the re-tender.

8. The learned Single Judge found that the appellant having participated in the tender process could not be permitted to challenge the same and accordingly dismissed the writ petition.

9. One of the contentions advanced by the appellant is that she was not given an opportunity to be heard prior to the passing of the order for the forfeiture of the EMD and debarring the appellant from participating in the re-tender.



10. It is apparent from the tender conditions that the said consequence does not automatically follow if the bidder quotes a price less than 90% of the estimated value. Such consequences would follow only if the bidder had intentionally quoted an amount below the threshold amount. Thus, it would be essential for the respondents to reach the said adverse conclusion for forfeiting the EMD and debarring the bidder. Since the said conclusion would have adverse civil consequences, it was necessary for the concerned authorities to afford the appellant an opportunity to be heard. The conclusion that the appellant had purposefully and intentionally quoted the said amount to frustrate the bidding process, without hearing the appellant, falls foul of the principles of natural justice.

11. In view of the above, we dispose of the present appeal by setting aside the order for forfeiture of the EMD and for debarring the appellant from participating in the re-tender. The said order may be considered as a notice to the appellant proposing to take such action.

12. The appellant is at liberty to furnish her response to the said notice within a period of four (04) working days from date.



13. The concerned authority shall pass an appropriate order as to whether to forfeit the earnest money and/or debar the appellant from participating in the re-tender, after affording the appellant an opportunity of being heard.

14. We clarify that all rights and contentions of the parties are reserved.

15. The appeal is disposed of in the aforesaid terms.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

KMV
List No.: 2 Sl No.: 10