

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN  
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WA.No. 579 of 2015 (N) IN WP(C).736/2015

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AGAINST THE JUDGMENT IN WP(C) 736/2015 of HIGH COURT OF KERALA  
DATED 12-01-2015  
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APPELLANT(S)/PETITIONER IN WP(C) :-  
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VENGARA MARKETING AGENCIES  
MAIN ROAD, VENGARA, MALAPPURAM DISTRICT  
REPRESENTED BY THE MANAGING PARTNER, SRI.HARIS.A.K., AGED 38 YEARS,  
S/O.KUNJEEKUTTY, ANCHUKANDAN HOUSE, VALIYORA  
VENGARA P.O., MALAPPURAM - 676 304.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENT(S)/RESPONDENTS IN WPC :-  
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1. THE TRAVANCORE CEMENTS LIMITED  
NATTAKAM, KOTTAYAM - 680 566  
REPRESENTED BY ITS MANAGING DIRECTOR.
2. THE MANAGING DIRECTOR,  
THE TRAVANCORE CEMENTS LIMITED, NATTAKAM  
KOTTAYAM - 680 566.

BY SRI.P.K.VIJAYAMOHANAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 11-03-2015, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, Ag. C.J &  
A.M. SHAFFIQUE, J.**

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**W.A. No.579 of 2015**  
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**Dated this the 11<sup>th</sup> day of March 2015**

**J U D G M E N T**

**Shaffique, J.**

The appellant, who is one of the tenderers in respect of supply contract has approached this Court by filing a writ petition as W.P.(C) No.736 of 2015 seeking for a direction to the respondents to permit the petitioner to participate in the negotiation which is scheduled to be held on 9.1.2014 pursuant to the Golbal E-tender for the supply of Clinker suitable for manufacturing white cement in terms of tender dated 1.12.2014.

2. The petitioner has also filed another writ petition, W.P.(C) No.33014 of 2014 seeking to permit him to participate in the tender. These writ petitions were dismissed by the learned Single Judge holding that the petitioner is not entitled for the reliefs claimed.

3. The learned Single Judge referred to Clause 6(b) of Ext.P1 tender notification, wherein it is stated that negotiation

-: 2 :-

has been restricted only to 'L1' bidder. The complaint of the petitioner is that despite such stipulation in the contract, the work was awarded to 2<sup>nd</sup> lowest after calling both L1 and L2 for negotiation, which, according to the petitioner, is wrongful and in that event he should also have been called for negotiation.

4. Learned counsel appearing for the respondents submits that the work has already been awarded as per letter of Indent dated 16.1.2015 and the first consignment has been received on 27.2.2015.

5. The short question is to be considered in this appeal is whether the petitioner is entitled to challenge the award of work in favour of the 2<sup>nd</sup> lowest. It is relevant to note that neither the first lowest nor the 2<sup>nd</sup> lowest was a party to the above proceedings. In so far as the work order has already been issued in favour of the 2<sup>nd</sup> lowest, grievance if any can be raised only by the first lowest. Under such circumstances, without impleading the aggrieved parties, it was not open for this Court to entertain the above writ petition. That apart, the petitioner cannot have any locus standi to challenge the award of work in favour of the 2<sup>nd</sup> lowest since the petitioner was the third lowest in the said proceedings. Hence, we do not find any

-: 3 :-

ground to interfere with the judgment of the learned Single Judge.

The writ appeal is therefore, dismissed.

**Sd/-**  
**ASHOK BHUSHAN**  
**Ag. CHIEF JUSTICE**

**Sd/-**  
**A.M. SHAFFIQUE**  
**JUDGE**

//TRUE COPY//

P.A. TO JUDGE

Jvt