

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WA.No. 2373 of 2015 () IN WP(C).13998/2015

AGAINST THE JUDGMENT IN WP(C) 13998/2015 DATED 28-09-2015

APPELLANT(S)/PETITIONER :-

1. EX-SERVICE WELFARE SAMITHY,
THRISSUR DISTRICT, C541-170, AYYANTHOLE,
CIVIL LANE KANJANI ROAD, THRISSUR
REPRESENTED BY THE SECRETARY K.R GOPINATHAN NAIR,
AGED 66 YEARS, S/O.RAGHAVAN NAIR, 'VIJAYA NIVAS',
P.O CHELAKKARA, THRISSUR DISTRICT
2. KERALA STATE EX-SERVICE LEAGUE,
(REGISTRATION No.K.20/65/77/92)
VIMUKTHA BHADA BHAVAN, CIVIL LANE, KANJANI ROAD
P.O AYYANTHOLE, THRISSUR-680003
REPRESENTED BY THE SECRETARY K.R GOPINATHAN NAIR
AGED 66 YEARS, S/O. RAGHAVAN NAIR, 'VIJAYA NIVAS'
P.O CHELAKKARA, THRISSUR DISTRICT.

BY ADV. SRI.RAJIT

RESPONDENT(S)/RESPONDENTS :-

1. UNION OF INDIA REPRESENTED BY THE SECRETARY
MINISTRY OF HEALTH & FAMILY WELFARE, NEW DELHI.
2. NATIONAL RESEARCH INSTITUTE FOR PANCHAKARMA
(CENTRAL COUNSEL FOR RESEARCH IN AYURVEDIC SCIENCE
P.O CHERUTHURUTHI, THRISSUR DISTRICT
REPRESENTED BY THE ASISSTANT DIRECTOR, DR.G.K SWAMY.
3. K.R. RAJAN, ADMINISTRATIVE OFFICER
NATIONAL RESEARCH INSTITUTE FOR PANCHAKARMA
(CENTRAL COUNSEL FOR RESEARCH IN AYURVEDIC SCIENCE
P.O. CHERUTHURUTHI, THRISSUR DISTRICT.
4. M/S. PROTECTO SECURITY SERVICE,
A.C. COMPLEX, CHEVOOR, THRISSUR
REPRESENTED BY THE MANAGING PARTNER.

R1 & R2 BY ADV. SRI.M.RAJENDRA KUMAR, CGC
BY SRI.K.ANAND
BY SRI.M.RAJENDRAKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30-
10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No.2373 of 2015

Dated this the 30th day of October 2015

J U D G M E N T

Shaffique, J.

This appeal is filed by the petitioners in W.P.(C) No.13998 of 2015 challenging the judgment dated 28.9.2015, by which, the writ petition was dismissed by the learned Single Judge.

2. The writ petition was filed seeking to quash Ext.P5 and for a direction to the respondents to award the contract for supply of manpower as advertised in Ext.P3 to the first petitioner. The contention urged by the petitioners was that on the basis of Ext.P3 notification, they have submitted their quotation in compliance with the terms and conditions as specified in the notification. When there was an attempt to award the contract to persons, who are not qualified, the writ petition came to be filed.

3. During the pendency of the writ petition, it was mentioned that the work was awarded to the additional 4th respondent. He was thereafter impleaded in the case. The

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petitioners, therefore, took up a contention that the additional 4th respondent was not qualified in terms of Clause (6) of the notification and the Awarder of the work has not taken into consideration Clause (8) of the terms and conditions of the notification inviting tender for evaluating the performance of the additional 4th respondent. Clause 6 and 8 read as under :-

“6. The quotation should clearly state whether they are authorized by Central Govt/State Govt. to provide the required categories of manpower and fulfill the statutory requirements of being registered with the State Govt./ESIC, EPF and other Statutory Bodies, if any, and provide copies of relevant documents in support of the same.

8. The criteria for selection of the manpower agency will be their track record of providing quality personnel and amount of service charge quoted by them. Keeping in view M/o Finance, Govt. of India, instructions, the institute will be liable to pay only 75% of Service Tax and the remaining 25% will have to be borne by the firm, subject to any change notified by the Govt.”

4. Heard the learned counsel for the appellants as well as the learned counsel appearing for respondents 1 to 3.

5. Learned counsel for the petitioners would submit that the documents produced by the additional 4th respondent does

not indicate that it is a State Government approved agency. He relied upon the registration certificate issued under the Kerala Shops and Commercial Establishment Act in favour of one Shajahan, who is only a partner of the additional 4th respondent and therefore, he cannot get the benefit of registration. But it is relevant to note that admittedly, Shajahan is a partner of the 4th respondent and once he became a partner of the firm, the firm is entitled to the benefit of registration certificate. That apart, respondents 1 to 3 have considered the aforesaid certificate as valid certificate, in which, we do not intend to express any opinion nor can this Court come to a finding that there is arbitrariness in the decision making process. As far as clause (8) is concerned, it is admitted that the quotation given by the additional 4th respondent is much less than that of the petitioners.

6. Learned counsel for the respondents submits that decision was taken on the basis of the respective rates quoted by the parties.

7. Under such circumstances, we do not think that the learned Single Judge has committed any error in dismissing the

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writ petition, as no grounds are made out to interfere with the decision making process made by respondents 1 to 3 in the aforesaid tender matter.

Hence, this writ appeal is dismissed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

//TRUE COPY//

P.A. TO JUDGE

Jvt/2.11.2015