

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE**

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WA.No.2738 of 2015 () IN WP(C). No.34540/2015

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AGAINST THE JUDGMENT IN WP(C) 34540/2015 OF HIGH COURT OF KERALA
DATED 02-12-2015.**

APPELLANT(S)/PETITIONER IN WP(C):

**M/S.ANSONS GROUP,
ARCHITECTS AND ENGINEERS, UNION HOUSE,
MUNICIPAL JUNCTION,
KOTTAYAM REPRESENTED BY ITS MANAGING PARTNER A.JOHN.**

**BY ADVS.SRI.DEVAN RAMACHANDRAN (SR.)
SRI.P.KURUVILLA JACOB
SRI.ADARSH KUMAR
SRI.K.M.ANEESH**

RESPONDENT(S)/RESPONDENTS IN WP(C):

- 1. STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY,
PUBLIC WORKS DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE EXECUTIVE ENGINEER.
PUBLIC WORKS DEPARTMENT, BUILDINGS DIVISION.
ALAPPUZHA DISTRICT, ALAPPUZHA POST-688 001.**
- 3. THE CHIEF ENGINEER,
PUBLIC WORKS DEPARTMENT (BUILDINGS), PUBLIC OFFICES,
THIRUVANANTHAPURAM-695 001.**
- 4. THE SUPERINTENDING ENGINEER,
PUBLIC WORKS DEPARTMENT (BUILDINGS), PUBLIC OFFICES,
THIRUVANANTHAPURAM-695 001.**

**BY ADDITIONAL ADVOCATE GENERAL SRI.K.I.JALEEL,
BY SPECIAL GOVERNMENT PLEADER SRI.T.P.SAJID**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18-12-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

KRJ

WA.No.2738 of 2015 ()

APPENDIX

APPELLANT'S ANNEXURES:-

- A1:- TRUE COPY OF CIRCULAR DATED 26.11.2015 ISSUED BY THE PUBLIC WORKS DEPARTMENT.**
- A2:- DETAILS OF THE WORK EXECUTED BY THE APPELLANT-FIRM.**
- A3:- TRUE COPY OF THE COMMUNICATION DATED 10.12.2015 ISSUED BY THE EXECUTIVE ENGINEER PUBLIC WORKS DEPARTMENT.**

RESPONDENTS' ANNEXURES:-NIL

KRJ

//true copy// P.A to Judge

ASHOK BHUSHAN, C.J

&

A.M.SHAFFIQUE, J.

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W.A No.2738 of 2015

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Dated this the 18th day of December, 2015

JUDGMENT

Shaffique, J

This appeal is filed by the petitioner challenging judgment dated 2.12.2015 in W.P(C) No.34540 of 2015 by which, the learned Single Judge disposed of the writ petition permitting the petitioner to approach this Court at a later stage of the proceedings, if he is aggrieved in any manner.

2. Appellant filed the writ petition, *inter alia*, contending that after inviting tenders and having found that the petitioner is the lowest tenderer, Ext.P2 letter had been issued, calling upon the petitioner to submit concept, design and master plan of the 100 intake Medical College confirming the norms and regulations of Medical Council of India, within a period of 20 days. According to the petitioner, the tender conditions as stipulated in Ext.P1 did not contain any proceeding which enables the awarder of the work to call upon the petitioner to submit the master plan, concept and design at this state. According to the writ petitioner, certain other tenderers were also asked to submit their concept, design and

master plan. It is contended that having noticed that the petitioner is the lowest tenderer, there was no reason for the respondents to invite other tenderers to submit the concept, design and master plan which, according to the petitioner, was to exclude him from the tender.

3. Counter affidavit has been filed on behalf of the 2nd respondent, in which it was stated that as per the short listing based on the percentage of the rate quoted, the petitioner is the lowest bidder in the case. As per the conditions in the bidding document, the tendering authority has power, either to accept or reject any offer. It is also stated that merely for the reason that the petitioner is the lowest tenderer, it does not mean that offer could be awarded to him. It is also stated that the offer for consultancy was invited under the conditions in terms of Clause 13(9) of the notice inviting officer and in any event of unrealistic rates are quoted by the bidder, such offer would be considered as unbalanced, and in case, the offerer is unable to provide satisfactory explanation such an offer is liable to be disqualified. It is also stated that the department wanted selected bidders to present a concept and design so that the department can verify and judge whether the rates quoted are realistic and sufficient.

4. The learned Single Judge after evaluating the respective contentions of the parties was of the opinion that the apprehension expressed by the petitioner cannot be accepted. What has been called for in terms of Ext.P2 was to submit concept, design and master plan. That apart, there is no reason for the Court to preempt an authority to take a decision before finalisation of the tender process.

5. Having heard the learned Senior Counsel appearing on behalf of the petitioner Sri.Devan Ramachandran and learned Additional Advocate General Sri.K.A.Jaleel, we do not think that there is any any error committed by the learned Single Judge in disposing of the writ petition. It might be true that the petitioner is the lowest tender. But it is always open for the awarder of the work to consider whether the rate quoted is realistic, taking into account the factual materials made available and the documents to be made available by the petitioner which includes concept, design and master plan. When such a verification is required for the purpose of finding out whether the rate quoted is realistic or not, we do not think that this Court will be justified in interfering with the said process at this stage of the proceedings.

6. The learned Single Judge has already reserved the right of the petitioner to agitate the matter if he is otherwise aggrieved after finalisation of tender. In such circumstances, we do not think that any ground has made out to interfere with the judgment of the learned Single Judge. Accordingly, the writ petition is dismissed.

The learned Single Judge has granted time to the petitioner to submit the concept, design and master plan on or before 26.12.2015. The time for production of the materials is extended by 31.12.2015.

sd/-

ASHOK BHUSHAN
CHIEF JUSTICE

sd/-

A.M.SHAFFIQUE
JUDGE

krj.19/12/15