

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 5339 of 2015 (N)

PETITIONER(S):

**B.A. RAHIMAN, AGED 58 YEARS,
S/O.C. AHAMED, BERKA HOUSE,
P.O. CHENGALA, KASARAGOD DISTRICT.**

BY ADV. SRI.T.K.VIPINDAS.

RESPONDENT(S):

- 1. THE SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE ASSISTANT EXECUTIVE ENGINEER,
LOCAL SELF GOVERNMENT DEPARTMENT,
SUB DIVISION, KARADKKA-671 543.**
- 3. KARADKA BLOCK PANCHAYATH,
REPRESENTED BY SECRETARY, MULLERIA,
P.O. MULLERIA, KASARAGOD DISTRICT, PIN-671 543.**
- 4. ABDUL RAHMAN A.R.,
PWD CONTRACTOR, BERKA, CHENGALA P.O.,
KASARAGOD-671 543.**
- 5. ABDUL RAZACK B.M.,
PWD CONTRACTOR, ARAFA MAHAL, BADIRA,
P.O. VIDYANAGAR, KASARAGOD DISTRICT, PIN-671 123.**
- 6. THE DIRECTOR, KERALA STATE IT MISSION,
THIRUVANANTHAPURAM, PIN-695 581.**

WP(C).No. 5339 of 2015 (N)

**7. THE STATE INFORMATICS OFFICER,
NATIONAL INFORMATICS CENTRE,
THIRUVANANTHAPURAM-695 033.**

**R1, R2, R6 & R7 BY GOVT. PLEADER SMT.ANITHA RAVINDRAN.
R3 BY ADVS. SRI.P.V.KUNHIKRISHNAN,
SRI.P.V.ANOOP.
R5 BY ADV. SRI.ARUN AJAY SHANKAR.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1: TRUE COPY OF THE RE-TENDER DATED 01.01.2015 BEARING NO.NO.D2/AEE/KRD/E-TEN/14-15 PUBLISHED IN DESHABHIMANI DAILY DATED 02.01.2015.
- EXT.P2: THE TRUE COPY OF THE TENDER DOCUMENTS SUBMITTED BY THE PETITIONER PURSUANT EXT.P1 TENDER.
- EXT.P3: THE TRUE COPY OF THE BID SUBMISSION CONFIRMATION DATED 13.01.2015 ISSUED TO THE PETITIONER.
- EXT.P4: TRUE COPY OF THE RE-TENDER NOTICE DATED 13.02.2015 PUBLISHED IN DESHABHIMANI DAILY DATED 14.02.2015.

RESPONDENT'S EXHIBITS:-

- EXT.R3A COPY OF THE LETTER NO.D1/E-TENDER/2014-15 DATED 12/02/2015 OF THE 2ND RESPONDENT TO THE 3RD RESPONDENT.
- EXT.R3A(1) ENGLISH TRANSLATION OF EXT.R3A.
- EXT.R3B COPY OF THE DECISION NO.23/15 DATED 13/02/2015 OF THE KARADKA BLOCK PANCHAYAT.,
- EXT.R3B(1) ENGLISH TRANSLATION OF EXT.R3(B).

//TRUE COPY//

PA. TO JUDGE

rs.

A.V.RAMAKRISHNA PILLAI, J.

W.P.(C)No.5339 of 2015

Dated this the 17th day of August, 2015.

J U D G M E N T

The petitioner is seeking stay of all further proceedings pursuant to Ext.P4 re-tender notice.

2. The petitioner is an A class contractor. According to him, he is entitled to take up works with the PWD and submitted Ext.P2 tender pursuant to Ext.P1 re-tender notice. The submission of the tender was confirmed as per Ext.P3. The petitioner and the 4th respondent had submitted valid tenders, while the tender submitted by the 5th respondent could not be opened, as he had made modifications in the template after uploading the details. The petitioner had quoted 1.45 % less than the estimate amount and was eligible to be awarded the tender. However, the respondents 2 and 3 have decided to go for a re-tender without assigning any valid or tangible reasons for

cancelling the earlier tender to favour the 5th respondent by publishing Ext.P4 re-tender notice. The act of respondents 2 and 3 in cancelling the earlier tender and inviting fresh tender is arbitrary ; it is alleged. It is with this backdrop, the petitioner has approached this Court.

3. I have heard the learned counsel for the petitioner, the learned counsel for the respondents and the learned Government Pleader.

4. As ordered by this Court, the 3rd respondent has produced Ext.R3(c) tender details downloaded from the website for the estimated rate. It reveals that four persons including the petitioner have submitted the re-tender. One person submitted tender for 6.65% below the estimated rate. The learned counsel for the petitioner submitted that a direction be given to the 3rd respondent to call the participants for negotiation, in the light of Ext.R3(c). However, such a procedure is not warranted, as one of the participants submitted tender for 6.65% below the estimated

rate.

In the result, this writ petition is dismissed, making it clear that, if any of the participants who had quoted rates lower to what has been quoted by the petitioner, is not interested in executing the work, the petitioner's tender can be considered by the panchayat.

Sd/-
A.V.RAMAKRISHNA PILLAI,
Judge.

ami/

//True copy//

P.A.to Judge