

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No. 13921 of 2015 (M)

PETITIONER(S) :

OMKAR SECURITY AGENCY,
DEVASWOM BUILDING, SOUTH OF PETROL PUMP,
KARUNAGAPPALLY, KOLLAM,
REPRESENTED BY ITS PROPRIETOR - K.BABY.

BY ADV. SRI.ARAVINDA KUMAR BABU T.K.

RESPONDENT(S) :

1. THE MEDICAL SUPERINTENDANT,
EMPLOYEES STATE INSURANCE CORPORATION HOSPITAL,
PARIPPALLY, KOLLAM, KERALA-691 574.
2. M/S. AAPT FACILITY MANAGEMENT PRIVATE LIMITED,
3/298 C-1, VATTAMALA HOUSE, ERAMATH ROAD,
KAKKANAD, ERNAKULAM-682 030.

R1 BY ADV. SRI.P.SANKARANKUTTY NAIR, SC, ESI CORPN.,
R2 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR,
R2 BY ADV. SRI.P.GOPINATH,
R2 BY ADV. SRI.P.BENNY THOMAS,
R2 BY ADV. SRI.K.JOHN MATHAI,
R2 BY ADV. SRI.JOSON MANAVALAN &
R2 BY ADV. SRI.KURYAN THOMAS.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1 : COPY OF THE TENDER ALONG WITH ANNEXURE-III, VI AND VII.
- EXT. P2 : COPY OF THE COMPARATIVE STATEMENT OF THE BIDDERS ALONG WITH THE RECOMMENDATION THEREIN.
- EXT. P3 : COPY OF THE REQUEST MADE BY THE PETITIONER DTD.29.1.2015.
- EXT. P4 : COPY OF THE INFORMATION RECEIVED UNDER THE RIGHT TO INFORMATION ACT DTD.14.1.2015.
- EXT. P5 : COPY OF THE REQUEST MADE UNDER THE RIGHT TO INFORMATION ACT DTD.3.3.2015.
- EXT. P5(A) : COPY OF THE INFORMATION RECEIVED UNDER THE RIGHT TO INFORMATION ACT, DTD.7.4.2015.

RESPONDENT(S) ' EXHIBITS :

- EXT. R1 : COPY OF THE LETTER NO.544/D/34/11/EHP/12/ADMN. DATED 29/04/2015.
- EXT. R1(A) : COPY OF THE STATEMENT PREPARED BY THE COMMITTEE MEMBERS.
- EXT. R1(B) : COPY OF THE LETTER NO.251/2015 FROM ASSISTANT LABOUR OFFICER, PARAVOOR DATED 22/04/2015.
- EXT. R1(C) : COPY OF THE KERALA GAZETTE, EXTRAORDINARY PUBLISHED ON 7TH NOVEMBER 2013 REGARDING MINIMUM WAGES HOSPITAL STAFF.
- EXT. R1(D) : COPY OF THE GOVERNMENT ORDER DATED 23/03/2012.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

W.P(C). No.13921 of 2015

Dated this the 15th day of June, 2015.

JUDGMENT

The petitioner is aggrieved with the award of the tender to the 2nd respondent, purportedly based on the comparative statement relied on at Ext.P2 and the contention that the petitioner had quoted rates for the workers at the minimum of the minimum wages applicable to them, as is revealed in Ext.P4.

2. The brief background facts are that the 1st respondent invited tenders for housekeeping services as per Ext.P1; both Supervisors and Cleaning staff. The petitioner and the 2nd respondent along with two others submitted the bids. Admittedly, the 2nd respondent's tender was the lowest. The petitioner's contention is that, by Ext.P2 the tender was awarded to him despite the 2nd respondent's tender being lower, since the petitioner was the lowest tenderor satisfying the minimum wages as entitled to each of the workers. The petitioner also, as was noticed above, relies on Ext.P4 issued by the Assistant Labour Officer, Karunagappalli.

3. The specific contention of the 1st respondent in their Counter Affidavit is that, Ext.P2 is not the Minutes of the Committee, which had been constituted to look into the various tenders and accept the successful bidder. Ext.P2 is the opinion of one Sri.R.K. Meena, the Deputy Director, who was one of the members in the committee. The Committee obviously did not agree with such recommendation, as is indicated in Ext.R1(a). This Court is inclined to accept the contention of the 1st respondent, since Ext.P2 shows only the signature of Sri.R.K. Meena, while Ext.R1(a) Minutes of the Committee shows the signature of all the six members of the committee. Hence, no reliance can be placed on Ext.P2.

4. The next contention with respect to the minimum wages, is only based on Ext.P4. The same is refuted by the 2nd respondent, specifically with the notification produced at Ext.R1 (c) dated 07.11.2013, which is applicable from 01.01.2013. A reading of the schedule of the notification would show that a Housekeeper is entitled to a minimum wage of Rs.8,100/- (Rupees Eight thousand and one hundred only) in a scale as stipulated therein and the Housekeeping Assistant starting at the

minimum of Rs.7,775/- (Rupees Seven thousand seven hundred and seventy five only). The Sanitary Supervisor is eligible to a minimum wage of Rs.8,975/- (Rupees Eight thousand nine hundred and seventy five only) and the Sanitary Worker to that of Rs.8,175/- (Rupees Eight thousand one hundred and seventy five only).

5. The petitioner neither by way of a subsequent notification nor pointed out any specific designation as indicated by the Assistant Labour Officer in Ext.P4, to substantiate the contention that the petitioner had in fact offered to take the work at the minimum wage as required to be paid under the Minimum Wages Act, 1948. In the teeth of the specific notification and the specific job descriptions pointed out by the 1st respondent, Ext.P4 is of no consequence. The Labour Officer could not, by his own, determine minimum wages, or decide on the designations; which power is solely with the Government.

The writ petition would stand dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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