

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 26251 of 2015 (F)

PETITIONER(S) :

**CHALAYYAM TRAVELS AND TRANSPORTERS,
S.V.MARKET P.O., KARUNAGAPALLY,,,
REPRESENTED BY ITS PROPRIETOR-MR.H.A.KHALAM.**

**BY ADVS.SRI.S.VINOD BHAT
SRI.LEGITH T.KOTTAKKAL**

RESPONDENT(S) :

- 1. INDIAN RARE EARTHS LIMITED,
CHAVARA, KOLLAM-691 583.**
- 2. M.S.T.C. LIMITED,
225C, AJC BOSE ROAD, CALCUTTA-700 020.**
- 3. T.V.K.CONSTRUCTION,
ARAAMAM, PADANAYARKULANGARA NORTH,
KARUNAGAPALLY-690 544.**

**R1-R2 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS**

R3 BY ADV. SRI.MILLU DANDAPANI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1 : COPY OF NOTICE INVITING TENDER BY THE 1ST RESPONDENT.**
- P2 : COPY OF THE E-MAIL DATED 23-06-2015 ISSUED BY
BY THE 2ND RESPONDENT.**
- P3 : COPY OF THE LETTER DATED 01-07-2015 SENT BY THE PETITIONER TO
THE 1ST RESPONDENT.**
- P4 : COPY OF THE LETTER DATED 16-07-2015 SENT BY THE PETITIONER
TO THE 1ST RESPONDENT.**
- P5 : COPY OF WORK ORDER NO.085/IREL/CH/E-15101 DATED 22.08.2015
ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT.**
- P6 : COPY OF THE GMAIL INBOX OF THE PETITIONER FROM 22.07.2015
TO 19.10.2015.**

RESPONDENT(S)' EXHIBITS :

- R1(A): TRUE COPY OF THE E-MAIL DATED 26.06.2015 FROM
THE 1ST RESPONDENT TO THE 2ND RESPONDENT.**
- R1(B): TRUE COPY OF THE E-MAIL DATED 01.07.2015 FROM
THE 2ND RESPONDENT TO THE 1ST RESPONDENT.**
- R1(C): TRUE COPY OF THE MINUTES OF SPC MEETING ON 14.07.2015.**
- R1(D): TRUE COPY OF THE E-MAIL DATED 21.08.2015 FROM
THE 1ST RESPONDENT TO THE PETITIONER.**
- R1(E): TRUE COPY OF THE FORWARDING E-MAIL DATED 31.08.2015
FORM THE 1ST RESPONDENT TO THE PETITIONER.**

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.26251 of 2015

Dated this the 6th day of November, 2015

JUDGMENT

The petitioner has taken part in the e-tender floated by the first respondent for excavation, loading and transportation of raw sand.

2. The e-tender was through the portal of the second respondent. As per the instructions, tenderer has to upload the documents in the document library of the portal of the second respondent. Thereafter, documents required for e-tender has to be downloaded and attached with the e-tender.

3. The petitioner uploaded the documents. It appears that the petitioner failed to attach the document from the library along with the e-tender. Accordingly, the petitioner was not considered.

4. The second respondent appears to have recommended the first respondent to accept hard copy. However, the first respondent did not accept the same as it may go against transparency of the e-tender process. It appears that the petitioner, thereafter, persuaded the first respondent by Exts.P3 and P4

pointing out the uploading of the document in the portal of the second respondent. The petitioner submits that they were on the *bona fide* belief that they have been included in the e-tender. The petitioner also refers to Ext.P6.

5. However, the learned counsel for the first respondent submits that they have intimated about the rejection as per Exts.R1 (e). The petitioners case is that they have not received Exts.R1(e) as revealed from Ext.P6.

6. I am not expressing anything about the subsequent communications between the parties. The question is whether petitioner is qualified to take part in the tender process. The petitioner having not attached the entire documents from the library of the second respondent, they cannot be included as the documents required have not been processed.

In that view of the matter, this Court is of the view that there is no merit in this writ petition. Accordingly, it is dismissed.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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