

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

W.P.(C).No. 31672 of 2015 (H)

PETITIONER :

BIBY SCARIA,
S/O. SCARIA,
AGED 44 YEARS,
ANCHANICKAL HOUSE,
KANCHIYAR P.O.,
KAKKATTUKADA,
KATTAPPANA VIA,
IDUKKI DISTRICT.

BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA
SRI.P.T.ABHILASH

RESPONDENTS :

1. FOREST INDUSTRIES (TRAVANCORE) LTD.(FIT) ,
THAIKKATTUKARA,
ALUVA-683 006,
ERNAKULAM DISTRICT
REPRESENTED BY ITS MANAGING DIRECTOR.
2. CHIEF ENGINEER,
FOREST INDUSTRIES (TRAVANCORE) LTD.,
THAIKKATTUKARA,
ALUVA-683 006,
ERNAKULAM DISTRICT.

R1 BY ADV. SRI.VIPIN NARAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

bpr

W.P. (C) .No. 31672 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE TENDER NOTIFICATION NO.FIT/CP-09/2015-16
DATED 20.8.2015 ISSUED BY THE 2ND RESPONDENT.

EXT.P2 TRUE COPY OF THE RELEVANT PAGE OF THE PROCEEDING OF
THE 2ND RESPONDENT, EVIDENCING THE ADMITTING OF THE
TENDER SUBMITTED BY THE PETITIONER IN PURSUANCE TO
EXT.P1 NOTIFICATION.

EXT.P3 TRUE COPY OF THE CORRIGENDUM DTD.9.10.2015 ISSUED BY
THE 2ND RESPONDENT.

EXT.P4 TRUE COPY OF THE TENDER DETAILS PUBLISHED BY THE 2ND
RESPONDENT IN ITS WEBSITE ON 14.10.2015.

RESPONDENTS EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

bpr

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 31672 of 2015

Dated this the 21th day of November, 2015

JUDGMENT

The petitioner has taken part in the tender invited by the 2nd respondent for participating the work related in NABARD. Ext.P1 is the notification.

2. This was cancelled and fresh tender was issued. Ext.P3 is the tender notice. In Ext.P3, it is stated that majority of the bidders have not submitted full details and there were complaints relating to the e-tender site. Accordingly, the original tender was cancelled and fresh tender is invited to give full opportunities to all bidders. The fresh tender was invited on 14.10.2015 and the opening of the bid was on 21.10.2015.

2. The petitioner submits that the cancellation of the

earlier tender is illegal. It is further submitted that it was done only to enable certain persons for submitting the tender.

3. A counter affidavit has been filed on behalf of the 1st respondent, wherein it is stated that the cancellation of the tender was to ensure equal opportunity for all bidders and to avoid technical disqualification due to the problem in the site. It is also submitted that all six packages scheme were cancelled and including one in respect of which, the petitioner has taken part.

4. The learned counsel for the respondents would also submit that in view of the cancellation, it is impossible to resurrect original tender process.

5. It is to be noted that the tender process is through online and the respondent has cancelled tender process. Assuming that the cancellation of e-tender process is illegal, it is not possible to direct to continue with the original tender process, as it is technically

impossible to resurrect the system. Further, it is noted by the respondents that wider publicity should be given for participants and they have received certain complaints regarding technical defects involved in the bid of process. This decision cannot be termed as arbitrary.

Considering the facts and circumstances, I am of the view that it is not proper for this Court to interfere at this stage. However, taking note of the fact that the petitioner has taken part in the earlier tender process and he has not taken part in the fresh tender, the petitioner should be given an opportunity to take part. Accordingly, opening of the re-tender process is extended till 30.11.20215. The petitioner shall submit his tender before 30.11.2015 and EMD already submitted by the petitioner shall be adjusted against the fresh re-tender.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE

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