

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(C).No. 32089 of 2015 (I)

PETITIONER(S):

**A.MOHANKUMAR, AGED 54 YEARS,
S/O VELUKUTTY PILLAI, ATHAM NIVAS, MYLAM,
CHERIYAKONNI P.O., THIRUVANANTHAPURAM.**

**BY ADVS.SRI.D.SAJEEV
SMT.LIGEY ANTONY**

RESPONDENT(S):

- 1. THE TRAVANCORE DEVASWOM BOARD,
NANTHANCOD, THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY-695003.**
- 2. THE DEVASWOM COMMISSIONER,
OFFICER OF THE DEVASWOM COMMISSIONER,
TRAVANCORE DEVASWOM BOARD, NANTHANCOD,
THIRUVANANTHAPURAM-695003.**
- 3. THE EXECUTIVE ENGINEER,
SABARIMALA DEVASWOM, SABARIMALA-689713.**

BY ADV. SRI.KRISHNA MENON, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 32089 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE TENDER NOTICE ISSUED BY THE 2ND
RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE LETTER DATED 13.10.2015 ISSUED BY THE
DEPUTY DEVASWOM COMMISSIONER (INSPECTION).**

**EXHIBIT P3: TRUE COPY OF THE ADVERTISEMENT ISSUED BY THE 2ND
RESPONDENT IN THE MATHRUBHOOMI DAILY DATED 17.10.2015.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 32089 of 2015

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Dated this the 24th day of December, 2015

J U D G M E N T

The petitioner has taken part in a tender process as per Ext.P1 by the Travancore Devasom Board for the preparation and packing of appam in connection with the Sabarimala temple Festival during the period 2015-16. Initially, the petitioner was the lowest bidder. The petitioner challenges the action of the respondent before this Court about re-tender in respect of the above contract.

2. The facts disclosed through the counter affidavit would show that the petitioner was invited for negotiation and the petitioner was not amenable for negotiation. Thereafter the Board decided to re tender and the petitioner did not take part in the re- tender. It is also to be noted that after the re-tender price was fixed based on the negotiation with the lowest bidder. The petitioner challenges before this Court stating that he was

not invited for negotiation based on the original tender and the awardee of the contract is involved in a crime. Therefore the award of the contract is in violation of the tender.

3. The learned Standing Counsel for the Board has placed before me the relevant file. This file would show that the petitioner has been invited for negotiation based on the original tender and the petitioner was not amenable, therefore Board decided to re-tender of the contract for the reason that price quoted by the petitioner was high in the original tender process.

4. In the contractual matter, the awarder of the contract has to determine the price. If they are not satisfied with the price, they are free to award the contract by a fresh tender. The present award of the contract undoubtedly is less than the amount quoted by the petitioner in the original tender.

3. Therefore this Court is of the view that the first respondent, Travancore Devasom Board is justified in tendering the contract. In relation to the 2nd objection raised by the petitioner regarding the involvement of the awardee of the contract in a crime, nothing has been placed before this Court to

show that he is involved in a crime. However if any records are available, the petitioner is free to point out the same to the Devasom Board. With the above observation the writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE