

THE HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

W.P.No.14852 of 2015

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ORDER

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Heard learned counsel for the petitioner, Sri A. Jagan, learned Standing Counsel for respondents 2 to 4 and Sri Harender Pershad, learned counsel for respondent No.5.

2. The petitioner claims that he is an experienced Stage-II Transport Contractor and offered his tender pursuant to a notification issued on 03.03.2015 for the year 2015-16 and he stood as L-2 tenderer in respect of MLS Point Gadwal. The 5th respondent stood as L-1 tenderer. Challenging the award of the contract to the 5th respondent, the petitioner filed the present writ petition.

3. The 5th respondent filed a separate counter affidavit, to which a reply was also filed by the petitioner.

4. Learned counsel for the petitioner submitted that the 5th respondent should have been disqualified as he had shown the same vehicles in respect of MLS Points of Gadwal and Ileeja while submitting the tender. He also drew the attention of this Court that the technical bid of the 5th respondent ought not to have been opened when he did not qualify for the same. The last point urged by the learned counsel for the petitioner is that two different persons have shown the same vehicles and submitted their tenders in respect of Gadwal and Ileeja MLS points.

5. With respect to the first point, the condition contained in paragraph 20 of the tender notice reads as follows;

“The tenderers should offer separate vehicles for each MLS Point tender. In case they are applying for more than one MLS Point, same lorries offered for more than one MLS Point will be liable to be rejected in case they are successful in more than one MLS point”.

A reading of the above paragraph makes it clear that there is no absolute bar for showing same vehicles in respect of two MLS points. However, if two tenders are found to be successful, then one tender in respect of the same lorries would be rejected.

6. In the instant case, the tender of the 5th respondent, though he had shown the same lorries for Gadwal as well as leerja, was accepted only in respect of Gadwal. Hence, the contention raised by the learned counsel for the petitioner cannot be accepted in terms of the said condition.

7. In respect of second point is concerned, learned counsel for the petitioner submits that the technical bid of 5th respondent should not have been opened as he is not qualified. In connection with this, one has to look into the terms and conditions mentioned in paragraph 8 thereof, which reads as follows;

“Tenderes should furnish the following documents along with Technical Tender form duly filled and signed by the tenderer.

- a. Bank draft towards EMD for Rs.____ obtained from any Nationalized Bank in favour of District Manager, APSCSCL____ payable at____
- b. Affidavit attested by a notary to the effect that the tenderer has no past or present criminal record with the police/vigilance of CS Dept./Vigilance and Enforcement Department Government of A.P./Government of India and that the tenderer or any of the partners or representatives were never black-listed by the Civil Suppliers Corporation/any Government Organisation at any time or involved in diversion of stocks or involved in case under EC Act or convicted by Court of law in a criminal case
- c. Affidavit stating that the tenderer or his representatives are not having any links with the rice millers/mills/rice millers lorry associations/foodgrains wholesalers and retail dealers and that the tenderer is not an existing stage I Contractor/F.P.Shop Dealer or their Associates.

- d. Particulars of vehicles owned along with copies of RC Books and valid permits, Telangana OR A.P.States Registered vehicles will only be accepted.
- e. Copy of the Partnership Deed along with permanent and present address of the partners in case of partnership firm.
- f. Copy of the Memorandum and Articles of Association in case of a limited Company.
- g. Copy of the firm registration, if it is a firm or a Company”.

Learned counsel for the petitioner submitted the same point, which he has raised in respect of point No.1, in support of this contention also. While considering the technical tender, what was stated above is that the particulars of vehicles owned along with copies of RC Books and valid permits, Telangana or A.P.States registered vehicles will only be accepted. It is not the case of the petitioner that the said information was not furnished along with the technical tender. Hence, this point cannot be accepted.

8. The last point urged by the learned counsel for the petitioner is with regard to showing of same lorries by two tenderers in respect of two MLS points. The second person submitted the tender by showing the same lorries in respect of different MLS point other than the MLS point where the 5th respondent was successful and he is not made a party to the present writ petition. Learned counsel seeks indulgence of this Court to call for the record and verify the said fact. This Court cannot call for the record and improve the case of the petitioner when the other person was not made a party to this writ petition. In these circumstances, the last point also does not survive.

9. In view of the above, this Court finds that there is no point to consider in the present writ petition. The Writ Petition is, accordingly, dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

A. RAMALINGESWAR RAO, J

15th June, 2015

sj