

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition Nos.6227 and 7899 of 2015

Date: 25-03-2015

Between:

M/s. Zoa Zone Services Private Limited, represented
by its Chief Executive Officer, K. Srinivasulu and another

.. Petitioners

AND

The Greater Hyderabad Municipal Corporation,
Represented by its Commissioner & Special Officer,
Hyderabad and 3 others

.. Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition Nos.6227 and 7899 of 2015

COMMON ORDER:

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Since issue involved in both the writ petitions is similar and identical, they are being disposed of by this common order.

Challenging the action of the respondents in not considering the tenders of the petitioners submitted pursuant to the tender notice No. NIT No.71/SC (CZ)/GHMC/T4/2014-2015, dated 04-02-2015 as illegal, arbitrary, the present writ petitions are filed.

2. The case of the petitioners in both the writ petitions, in brief, are that the 1st respondent issued a tender notice NIT No.71/SC (CZ)/GHMC/T4/2014-2015, dated 04-02-2015 inviting proposals from reputed firms and agencies for annual maintenance of pothole filling on arterial and sub-arterial roads, pursuant to which, the petitioners submitted their tenders. It is stated that the respondent authorities, without considering the tenders of the petitioners, have selectively considered some tenders of others and that the tenders of the petitioners were not considered on the ground that they have not remitted the EMD amount as per the conditions therein. Aggrieved by the same, the present writ petitions are filed.

3. Heard the learned counsel for the petitioners and Sri R. Radhakrishna Reddy, learned standing counsel for the respondent Corporation.

4. This Court in W.P.No.6227 of 2015 on 11-03-2015 passed interim order directing that the tender process may go on, but not finalized the tenders.

5. Learned standing counsel for the respondent Corporation stated that the tenders of the petitioners were rejected as non-response due to non-payment of EMD. He further submits that on the earlier occasion, the petitioners were exempted for payment of EMD, but in the present case, the petitioners are not entitled to claim exemption from payment of EMD. Learned standing counsel produced a copy of the certificate issued by the National Small Industries Corporation Limited dated 05-09-2014 basing on which the petitioners claimed exemption from making payment of EMD. A perusal of the Certificate shows that only for certain works, the petitioners claimed exemption from payment of EMD, but the works for which the impugned tender notification is issued are not covered by the said certificate and consequently, the petitioners are liable to pay EMD amount in pursuance of the impugned tender notice, if they are already not paid the EMD amount. In this regard, the learned counsel for the petitioners stated that the 2nd petitioner had already remitted the EMD amount and the 1st petitioner has to remit the EMD amount, but the rejection of tender of the 2nd respondent on the ground of non-payment of EMD amount is not sustainable. Learned standing counsel further stated that if the petitioners deposited the amount, their case can be considered.

6. Therefore, having regard to the facts and circumstances of the case and the material on record, since the works for which the impugned tender notice is issued are not covered by the certificate issued by the National Small Industries Corporation Limited for claiming exemption, it is for the petitioners to remit EMD amount pursuant to the tender notice dated 04-02-2015 within a period of one week from the date of receipt of the order, if it is not paid, and the respondent Corporation shall consider the tenders of the petitioners along with other tenderers after payment of EMD amount as ordered above, notwithstanding the rejection orders dated 13-03-2015 passed by the respondent Authority.

With the above observation, the writ petitions are disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

Date: 25-03-2015

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Note: Issue C.C. in two days

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