

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.38166 of 2015

Dated 24.11.2015

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Between:

The Kothagudem Municipal Sanitation Contract
Workers Labour Contract Mutually Aided Cooperative
Society (Macs) Ltd. Kothagudem, Khammam District
rep. by President A.Rama Rao and another

... Petitioners

and

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The State of Telangana
rep. by its Prl.Secretary
Municipal Administration Dept.,
Hyderabad and 3 others.

... Respondents

Counsel for the petitioner: Mr.M.V.Hanumantha Rao

Counsel for respondent No.1: AGP for Municipal Administration

Counsel for respondent Nos.2 & 3: None appeared

The Court made the following:

Order :

The petitioners filed this Writ Petition apprehending that the tender of petitioner No.1 may not be considered in the council meeting proposed to be held by respondent No.2 today. The basis for this apprehension stems from the agenda wherein, under item No.14, it is stated that the petitioner and respondent No.4 have quoted equal rates; that thereby, both of them have emerged as L1; and that as petitioner No.1 does not have experience, the contract may be awarded to respondent No.4.

Mr.MV.Hanumantha Rao, learned Counsel for the petitioners, submitted that as per the tender schedule, no previous experience is prescribed and as such, the above mentioned item of agenda, which is placed before respondent No.2, is without any basis.

In my opinion, the Writ Petition is premature as respondent No.2 has not taken any decision so far and what is placed before it in the above mentioned item of agenda is only a proposal. There can be no presumption that the duly elected municipal council will not consider the facts and mechanically accept and act on the proposals. If the tender conditions do not stipulate previous experience, that would not disqualify the petitioners. Even otherwise, the petitioners have specifically pleaded that petitioner No.1 has executed similar works and that therefore, it has experience.

In the light of the above facts, respondent No.2 is directed to consider the claim of petitioner No.1 with reference to the documents filed by it in relation to its previous experience and examine whether previous experience is a relevant criterion for award of work. Even if respondent No.2 decides to adopt the previous experience as a criterion as petitioner No.1 and respondent No.4 have quoted equal rates, it shall further examine the plea of petitioner No.1 that it has executed similar works in the past with reference to the documents that might have been filed by it along with the tender and take a decision by applying the above criteria.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.49116 of 2015, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 24th November, 2015

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