

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 25270 OF 2015

ORDER:

Heard on both sides.

The petitioner submitted its tender pursuant to the e-Procurement tender notice issued by respondents 1 and 2 on 19.05.2015 calling tenders for supply of manpower for various categories in various campuses of the first respondent-University at Jagityal, Hyderabad, Kukatpally, Manthani and Sulthanpur. The value of the contract work was put to Rs.1,70,16,408/- and the period of contract is 12 months. The bid documents have to be downloaded from 20.05.2015 to 6.6.2015. Though the petitioner submitted its tender, when the tender of the fourth respondent was accepted, the present Writ Petition is filed.

The fourth respondent filed a counter affidavit stating that it has fulfilled all the conditions of tender and work was validly awarded to it.

Though respondents 1 to 3 have not filed counter affidavit, however, the learned Standing Counsel appearing for them assisted this Court by showing relevant documents.

The relevant documents required to be filed along with Bid are mentioned in Clause 6 of the tender notification, which reads as under:

:6. Documents to be furnished along with Bid Document:

- i) xxxx xxxx xxxx
- ii) Valid registration Certificate of Firm or Agency under relevant act since last five years.
- iii) Valid registration with ESI since last five years and latest copy of the Challans deposited.
- iv) Valid registration with EPF since last five years and latest copy of the Challans deposited.
- v) xxxx xxxxx xxxxx
- vi) Registered with Labour Department, under relevant category since last five years.
- vii) xxx xxx xxx
- viii) Latest Income Tax Saral form>Returns filed. The Agency should be Income Tax Payee for minimum five years.
- ix) List of Present Clientele with contact address & telephone numbers.
- x) Service tax Registration Certificate
- xi) The bidders should produce experience certificate of providing manpower of minimum 162 employees in the similar category/categories in any one year preceding five years viz., 2010-11 to 2014-15
- xii) Annual Turnover of the Agency/Firm should not be less than Rs.1,70,16,408.00 per annum in any one year preceding five years viz. 2010-11 to 2014-15.
- xiii) xxxxx xxxx xxxx
- xiv) xxxxx xxxx xxxx
- xv) The bidders should produce Articles of Association (in case of registered firms), Bye laws and certificates for registration (incase of registered co-operative societies), partnership deed (in case of partnership firm).

xvi) An undertaking (self certificate) that the agency has not been back listed by a Central/State Government Institution and there has been no litigation history with any government department on account of similar services and the same should be uploaded/submitted.

xvii) The tenderer must have minimum one branch office at Hyderabad before or after award of the contract.

xviii)	xxxx	xxx	xxxx
	xxx	xxxx	xxxxx”

The learned Counsel for the petitioner submitted that the fourth respondent did not submit the requisite documents and in spite of the same, its tender was accepted.

Learned Standing Counsel appearing for Respondents 1 to 3 submitted that the petitioner was not qualified as it (the petitioner) has not submitted relevant registration certificate with ESI for the last five years and registration certificate with EPF for the last five years. It is stated that cut-off date for the said certificates is prior to 9.6.2010. The petitioner produced registration certificates with ESI and EPF dated 7.11.2012 and 15.11.2012 respectively. When this is pointed out, learned Counsel for the petitioner produced no evidence with regard to registration certificates with ESI and EPF authorities obtained before the cut off date. But the learned Counsel for the petitioner submitted that the fourth respondent did not fulfill the criteria. This Court is not concerned with the decision taken by respondents 1 to 3 in awarding contract in favour of the fourth respondent when the petitioner itself has not fulfilled the criteria.

If the petitioner's tender was not properly considered in relation to the tender of the fourth respondent, this Court will certainly examine the validity of the tender submitted by the petitioner, but the petitioner did not submit relevant documents along with the bid. In the circumstances, enquiry into the process of award of the contract in favour of the fourth respondent would be in the nature of a Public Interest Litigation at the instance of the petitioner and the same is unwarranted.

The Writ Petition is accordingly dismissed.

Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 4TH SEPTEMBER, 2015
MSNR_x