HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT APEAL No. 443 OF 2015

05-06-2015

Between:

M/s. Balaji Lorry Transport, Kurnool, rep., by its Managing Partner, K. Nageswara Rao, Near V.R. Colony, Kurnool

… Petitioner

And

M/s. Balaji Transport, rep., by its Managing Partner,

K. Venkateswarlu Guptha, S/o. Sivaiah, aged 54 years, Office at 5/187, Sri Vasavi Nilayam, Vijayanagaram Street, Proddatur, YSR Kadapa District and three others

… Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

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WRIT APEAL No. 443 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order dated 01-06-2015 passed in Writ Petition No. 7359 of 2015 filed by the 1st respondent. In the writ petition, the 1st respondent challenged the action of the remaining respondents in rejecting their tender which was filed by them pursuant to the notification dated 27-02-2015. It appears that as per the tender conditions, tenderer should have 18 vehicles owned/hired with R.C books, latest Form 24-B, fitness certificates and valid permits of all the vehicles declared in the tender. Insofar as the 1st respondent is concerned, it could not and did not furnish fitness certificate in case of only one vehicle and, hence, their technical bid was rejected. The decision of rejecting the 1st respondent's technical bid was challenged in the writ petition. The learned Judge, after considering the case of both sides and considering the documents produced on record, allowed the writ petition and while doing so, in the concluding paragraph observed thus:

> "For the foregoing reasons, the 2nd respondent – Corporation is directed to receive the Fitness Certificate produced by the petitioner relating to lorry bearing registration No. AP04X 9954, evaluate the tenders and **award contract in favour of the petitioner if it is found to be the lowest tenderer after opening the financial bid pursuant to the Tender Notification dated 27-02-2015 for the year 2015-16** of Kurnool district in the State of Andhra Pradesh. This writ petition succeeds and the same is allowed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs."

Learned counsel for the appellant, at the outset, invited our attention to the highlighted portion of the above paragraph and confined his challenge to the direction to award contract in favour of the 1st respondent if it is found to be the lowest tenderer. He submits that the learned Judge after directing to accept the technical bid ought to have left it to the respondent – Corporation to negotiate with the tenderers and award the contract.

Learned counsel appearing for the 1st respondent and the respondent – Corporation fairly stated that they have no objection for leaving it open to the Corporation to decide to whom to award the contract, may be after negotiating with the appellant and the 1st respondent.

In view thereof, we are satisfied that this writ appeal can be conveniently disposed of by the following order:

"The direction issued by the learned single Judge, in the impugned order, directing the respondent – Corporation to award contract in favour of the 1st respondent if it is found that the 1st respondent is the lowest tenderer is set aside and it is left open to the Corporation to award contract, if they find it necessary, after negotiating with the appellant and the 1st respondent."

With these observations, the writ appeal is disposed of.

Miscellaneous petitions, if any, also stand disposed of.

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DILIP B. BHOSALE, ACJ

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S.V. BHATT, J

05-06-2015

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