

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.41071 OF 2014

ORDER:

This writ petition is filed seeking *Writ of Mandamus* declaring the order passed by the respondents 2 and 3 in Memo No.W12/DEE.IV/PMGSY-11/Pkg.No.APO41410/KDP/2014 dated 17.11.2014 canceling and recalling the tender for the work Package No.AP04131410T03BT to the road from Lomada to Gurujala, as illegal and arbitrary and for a consequential direction to the respondents 2 and 3 to open the price bids and finalize the tender.

The case of the petitioner is that the 2nd respondent called for tenders through e-procurement for the work Package No.AP04131410T03BT to the road from Lomada to Gurujala. In pursuant to the same, the petitioner and two others have submitted their tenders and the bid opening authority found the three bidders as qualified. Subsequently, the technical evaluation District Level Tender Committee revaluated the tenders and recommended the three bidders as technically qualified. Thereupon, the 2nd respondent has directed the 3rd respondent to re-examine and submit the evaluation in the light of clause 4-4A of instructions to bidders. The Technical Committee has re-evaluated all the three bidders and on being found qualified intimated the same to the 2nd respondent vide letter dated 20.10.2014. While that being so, the 2nd respondent basing on the letter of the 3rd respondent has cancelled the tender and directed the 3rd respondent to recall the tender. Accordingly, the 3rd respondent has cancelled the tender vide Memo dated 17.11.2014 and issued a fresh tender notification dated 05.01.2015. Petitioner has also participated in the fresh tender, but was disqualified on the ground that he has not complied with condition No.4-4A of tender conditions. Aggrieved by the same, the present writ petition is filed.

Counter is filed by the respondents stating that the petitioner was disqualified on the ground that he has satisfied the clause 4.4A of tender conditions. As such, his bid cannot be considered.

Learned counsel for the petitioner submits that in addition to the tender notification, the respondents issued proceedings filed at page 36 of material papers in writ petition regarding Eligibility criteria. The same is not considered and bid of the petitioner is rejected.

Learned Assistant Government Pleader for Panchayat Raj submits that as per clause 4.4A of the tender conditions, the value of single work of the petitioner for similar nature of work is insufficient, as such, the same was not considered and that he was declared as disqualified.

Since issuance of tender is only an offer to invitation and it is for the competent authority to accept offer or go for fresh tenders. This Court is not inclined to interfere with impugned proceedings.

In the instant case, though it is asserted in the writ petition that the respondents have issued further proceedings regarding Eligibility criteria and uploaded the same in the website, the respondents have not disputed the same in the counter. In the documents filed at page 36 of material papers, it is mentioned

“to qualify for award of the contract, each bidder in its name should have in the last 5 years Satisfactory completed as a prime contractor works under Road Work category, in any one financial year ending with 31.03.2014 of value not less than Rs.18296934.”

A reading of the same indicates that all works executed by the contractor shall be taken into account for the purpose of valuation. In view of the same, since the petitioner has participated in the fresh tender notification issued on 05.01.2015, the respondents shall take into account the total value of works executed by petitioners for the purpose of evaluation while considering the bid of the petitioners along with others and shall be finalized and thereafter shall award the contract as per law.

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

A.RAJASHEKER REDDY, J

07.04.2015

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