

HON'BLE SRI JUSTICE S.V. BHATT
WRIT PETITION No.8800 OF 2015

ORDER:

Heard learned counsel for the petitioner and the Government Pleader.

The petitioner prays for Mandamus declaring the action of respondents in awarding Diet contract for supply of Diet to patients and Duty Doctors in Area Hospital in Nagarkurnool and Community Health Centre, Shadnagar in favour of 7th respondent, as illegal and unconstitutional.

The circumstances leading up to the filing of the writ petition are not in dispute. The factual or legal objection on which the challenge to selection of 7th respondent is on the ground that the 7th respondent does not comply with one of the requirements of G.O.Ms.No.325, Health, Medical & Family Welfare (M1) Department dated 01.11.2011 for consideration in the ongoing tender process. The complaint against the 7th respondent is that the 7th respondent has failed to furnish turnover certificate, whereas the petitioner filed along with tender document the certificate of turnover signed by the Chartered Accountant of petitioner. Therefore the petitioner prays for setting aside the selection of 7th respondent.

The 4th respondent has filed counter affidavit.

In the counter affidavit, it is stated that the 7th respondent instead of certificate from the Chartered Accountant, has produced the Bank Statement to show that Rs.33,00,000/- turnover is handled by him and that the turnover shown through Bank Statement satisfies the tender condition. The relevant portion in the counter affidavit reads as follows:

"The contention of the petitioner is that the respondent No.7 has not filed any certificate in evidence of annual turnover to claim 25% weightage is incorrect. In fact the respondent filed bank statement showing Rs.33,00,000/- lakhs as annual turnover and according to G.O.Ms.No.325 dated 01.11.2011 Para Clause (3) of Para 13 reads as follows "Annual turnover weightage 25% Annual turnover should be minimum of 25 lakhs per annum for teaching hospitals, Rs.5 lakhs per annum for District Hospitals and one lakh per annum for Area Hospitals/Community Health Centre."

The respondent has given equal weightage to petitioner as well as 7th respondent and a tie in allotment of marks has arisen and a decision to draw the lots was taken. The petitioner was permitted to pick up the ticket and the petitioner picked up the ticket of 7th respondent. Basing on the result in the draw, the confirmation of contract was made in favour of 7th respondent.

I have perused the material available on record and considered the submissions of learned counsel appearing for the parties. The ground on which the jurisdiction of this Court is invoked is on the alleged premise of non-furnishing of turnover details by the 7th respondent. The same appears to be factually incorrect and the Court is relieved of considering the legal impact of such objection against 7th respondent. There is no merit in the sole objection raised by the petitioner and the writ prayer fails.

The writ petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

S.V.BHATT, J

Date:13.04.2015
Stp

