

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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WRIT APPEAL No.392 OF 2015

JUDGMENT: (Per Hon'ble Sri Justice R. Subhash Reddy)

This appeal, under Clause 15 of the Letters Patent, is filed by the respondents in W.P.No.1950 of 2015 aggrieved by the order, dated 01.05.2015, passed in the said Writ Petition.

The aforesaid Writ Petition is filed by the respondent herein seeking to direct the appellant - Railway authorities to open the financial bid of the respondent and permit him to participate in the tendering process pursuant to the tender notice, dated 21.04.2014. The South Central Railways, Secunderabad Division, has issued Tender No.61/Cr/SC/14/OT, inviting tenders for supply and stacking of 50mm gauge hard and durable machine crushed stone ballast to Railway's specification at Railway depot at Bibi Nagar Station in SC – division and loading the same into railway hoppers/traffic ballast wagons by mechanical means. As per the conditions of the tender, when an offer is made by a Firm or a Company, the tender shall be signed by a legally authorised person to enter into commitments on their behalf. One Sri Surendra Babu, Managing Director of the respondent – Company, has executed GPA in his own favour authorising himself to do certain acts on behalf of the respondent – Company, but it is the case of the appellants that it is not a valid authorisation as per the terms and conditions of the Tender Notice as the resolution passed by the Board of Directors of the respondent – Company in favour of the Managing Director of the Company empowering him to execute documents on behalf of the Company is

not available.

On the other hand, it is the case of the respondent that as per the terms and conditions notified by the appellants, it is open to the respondent to furnish copy of the GPA at a later point of time also and subsequent to filing of GPA, he has also submitted authorisation letter issued by the Board of Directors of the Company authorising him to act on behalf of the Company and as such, there is no reason to reject the tender submitted by the respondent.

Heard learned counsel for the parties.

The Writ Petition is at the stage of admission. While referring to the decisions of Honourable Supreme Court in ***Goldyne Technoserve Limited v. State of Madhya Pradesh and others***, ***B.S.N. Joshi & Sons Ltd. v. Nair Coal Services Ltd. and others***, ***Poddar Steel Corporation v. Ganesh Engineering works and others*** and ***G.J. Fenandez v. State of Karnataka and others***, *prima facie* accepting the case of the respondent, the learned single Judge has passed the impugned order directing the appellants not to finalise or create any further interest in favour of successful tenderer.

Inasmuch as counter affidavit is filed in the Writ Petition and as the Writ Petition is at the stage of admission, we do not find any merit in this appeal so as to entertain the same at this stage, but we deem it appropriate to dispose of the appeal by requesting the learned single Judge to dispose of the Writ Petition expeditiously.

Subject to the above, the appeal is disposed of. Miscellaneous Petitions, if any, pending in this appeal shall stand closed. No costs.

R.SUBHASH REDDY, J

A.SHANKAR NARAYANA, J

June 09, 2015

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