

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

* * * *

-

WRIT PETITION No.40268 of 2015

BETWEEN

Raj Kumar Naidu.

... PETITIONER

AND

The State of Telangana, Rep. by its Principal Secretary, Medical & Health Department,
Secretariat, Hyderabad and others.

...RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 23.12.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

1. Whether Reporters of Local newspapers may be No
allowed to see the Judgments?
2. Whether the copies of judgment may be marked No
to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to see the No
fair copy of the Judgment?

-

-

-

-

ORDER:

Petitioner, who is a retired Indian Air Force Personnel, submits that in response to the tender notification, issued by the fifth respondent, calling for providing and management of security services for the year 2011-2012, he had applied on 11.04.2011. At the time of applying, petitioner had deposited EMD of Rs.2,68,850 and a demand draft for Rs.10,00,000/- as caution money. However, the tender was awarded to another person, which was challenged in WP.No.9462 of 2011 wherein an interim order was granted by this Court on 08.04.2011. In view of the pendency of the said writ petition, therefore, the tender was not finalized by the respondents. Subsequently, the tender was allotted to one M/s. Jaihind Security Services. Thereafter, the petitioner made a representation before the fifth respondent for return of EMD and the caution deposit under his request dated 30.06.2014 together with interest at 24% from the date of deposit. It is stated that in August 2014, caution money deposited was returned but EMD was not returned. After repeated requests of the petitioner, the same was not returned. Ultimately, petitioner filed the present writ petition claiming that withholding of EMD is highly unconstitutional and arbitrary.

2. When this writ petition came up for hearing, learned Government Pleader was directed to get instructions in the matter and the matter was adjourned on more than one occasion. Today learned Government Pleader, on telephonic instructions, submits that the fifth respondent would refund the said EMD amount to the petitioner but, however, the interest is disputed and for refund of the EMD amount learned Government Pleader submits that the fifth respondent sought minimum four to six weeks time.

3. Considering that the EMD was deposited by the petitioner out of his own funds and he was not awarded the contract, there is no reason why the fifth respondent should withhold the said EMD instead of returning it to the petitioner along with the caution money.

Hence, the fifth respondent is directed to return/refund the said EMD amount to the petitioner, preferably, within a period of four (4) weeks from the date of receipt of a copy of this order and shall also consider the claim of the petitioner for interest for the delayed payment and pass appropriate orders with regard to the liability of interest within eight (8) weeks from the date of receipt of a copy of this order.

The writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

December 23, 2015

DSK