

**In the High Court of Judicature at Hyderabad
for the State of Telangana and the State of Andhra
Pradesh**

Writ Petition No.1812 of 2011

M/s.Kamareddy Cement Moulding Works
Kamareddy, rep. by its Proprietor Mr.K.Kishan

... Petitioner

and

–
The Co-op Electric Supply Society Limited
Sircilla, rep. by its Managing Director
CESS Limited, Sircilla Karimnagar District

...Respondent

Date of Judgment Pronounced: 13-08-2015

Submitted for Approval:

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

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

*** The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

+ Writ Petition No.1812 of 2011

% Dated 13.08.2015

Between:

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... Petitioner

and

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Sircilla, rep. by its Managing Director
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...Respondents

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**^ Counsel for the respondents: Mr.Arun Kumar Doddla
for Mr.Ch.Koteswara Rao**

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? Cases cited: NIL

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

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Counsel for the Petitioner: Mr.Mohammed Habeebuddin

for Mr.Ch.Jagannatha Rao

**Counsel for the respondents: Mr.Arun Kumar Doddla
for Mr.Ch.Koteswara Rao**

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to direct the respondent to rectify the mistake committed by the petitioner in quoting the price against the column relating to 'Total Value per Unit' by substituting the figure 'Rs.945/-' for 'Rs.845/-'.

In response to Tender Specification No.4/2010-11, dated 25-08-2010, for supply of 1000 Prestressed Cement Concrete (PSCC) poles of 8 meters length, the petitioner has submitted his quotation, dated 04-10-2010, which was opened on 05-10-2010. In the said quotation, against Column No.11- "Total Value per unit", the petitioner has mentioned the figure

'Rs.845/-'. Thereafter, the petitioner has, purportedly, realised his mistake and submitted a representation on 22-10-2010 to the respondent stating that the sum total of the three components of basic price, Transportation and VAT comes to

Rs.945/- and that in Column No.11- "Total Value per Unit" instead of mentioning the said figure, the petitioner has, by mistake, mentioned the figure of 'Rs.845/-'. The petitioner has, accordingly, requested the respondent to accept the figure of 'Rs.945/-' instead of 'Rs.845/-'. However, by proceeding No.CESS/Purchase/ P.O.No.23/2010-11, D.No.1290/2010, dated 10-12-2010, the respondent has issued the purchase order by accepting the rate of Rs.845/- per unit. The petitioner has received the purchase order and commenced the execution of work without any demur. More than a month thereafter, it has filed the present Writ Petition for the afore-mentioned relief.

On behalf of the respondent- The Co-operative Electric Supply Society Limited, its Managing Director filed a counter-affidavit wherein it is *inter alia* stated that after the petitioner has submitted its tender, negotiations were held on 22-10-2010; that on the same day, the petitioner has submitted its representation requesting the respondent to accept the tender for Rs.945/-; that as no such request was made at the time of

opening of the tender, the respondent has rejected the same; and that, thereafter, the respondent has placed the order for supply of 10,000 numbers of PSSC poles of 8 meter length @ Rs.845/- per pole inclusive of all taxes, duties and F.O.R. Sircilla; that the petitioner has accepted the said purchase order and supplied around 875 out of 1000 poles without any protest; that if the petitioner felt that the rate is very low, it should have refused to execute the contract and that the petitioner has deliberately quoted the wrong figure with an intention to mislead the respondent.

The respondent further averred that other contractors are supplying 8 meter length poles to the Andhra Pradesh Northern Power Distribution Company Limited @ Rs.935/- only from distant places, whereas the petitioner is supplying the poles from a very nearby place viz., Kamareddy, which is 50 kms away from Sircilla, and that in these circumstances, the rate of Rs.845/- is very reasonable.

At the hearing, the learned Counsel for the petitioner reiterated the petitioner's plea that the sum total of Column Nos.6, 7 and 9 comes to

Rs.945/- and that, by mistake, the figure of 'Rs.845/-' was mentioned in Column No.11- "Total Value per Unit". As admitted by the respondent, Column No.11 represents the sum total of Column Nos.6, 7 and 9 and the correct figure that should have been mentioned by the petitioner is 'Rs.945/-' and not 'Rs.845/-'.

However, I find merit in the plea of the respondent that the petitioner ought to have pointed out the said mistake at the time of opening of tenders. For the first time, the petitioner gave its representation on 22.10.2010. As noted above, it is the pleaded case of the respondent, which is not disputed by the petitioner, that after it gave the representation, negotiations took place between the parties followed by issue of purchase order on 10.12.2010, wherein, without taking into consideration the petitioner's request for modifying the rate, the rate as quoted by it at Column No.11 was accepted. If the petitioner really had an objection, there was no reason for it to have accepted the purchase order and commence the execution of work. This conduct of the petitioner supports the plea of the respondent that the former has deliberately mentioned a wrong figure to make

it appear that it has quoted the lowest figure for bagging the contract and to get the said figure altered after the contract is awarded to it. Such conduct of the petitioner disentitles it for being shown any indulgence by this Court in exercise of its discretionary jurisdiction. The petitioner, having agreed to execute the work with its eyes wide open by accepting the purchase order issued more than 1½ months after it has made the representation for rectification of the rate, has waived its right, if any, to seek such rectification.

For the above-mentioned reasons, the Writ Petition is wholly without any merit and the same is, accordingly dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.2211 of 2011, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 13th August, 2015

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