

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

**THURSDAY, THE FIRST DAY OF OCTOBER TWO THOUSAND AND
FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.32020 of 2015

Between:

The Sri Sai Harijana Mahila Labour Contract
Co-op. Society Limited, OR. 635,
Oguru, Kandukur Town and Mandal,
Prakasam District, Rep. by its President
Daggumati Lakshmi Rajyam.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Municipal Admn. Department,
Secretariat, Hyderabad & another

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

The petitioner society, which is a contractor, is challenging the short tender notification, dated 14.07.2015, issued by the Commissioner, Kandukur Municipality, Kandukur, Prakasam District (2nd respondent). This tender notification is issued for provision of sanitary services in the 2nd respondent Municipality.

2. Learned counsel for the petitioner contends that on earlier two occasions, tender notifications are issued for the very purpose and the petitioner was found to be the lowest bidder eligible to be awarded the contract, but for no reasons, the said tenders are not finalized and the 2nd respondent Municipality had gone for a new tender and such action of the 2nd respondent Municipality amounts to arbitrary exercise of power and is liable to be set aside

on that ground alone.

3. Learned Standing Counsel, on instructions, submits that the tender conditions require the participant to possess enrollment with the Provident Fund Department as well as Employees State Insurance (ESI) Department and unless the contractor has registration with the Provident Fund and ESI authorities, he is not eligible to participate in the tender process. On verification of the tender submitted by the participants, it was noticed that none of them are qualified on those parameters. Therefore, the decision was taken to cancel the tenders and revised tender for short time is issued.

4. Learned counsel for the petitioner submits that the petitioner was not informed of such requirements nor the petitioner was informed the reasons for cancelling the earlier tenders and calling for new tender. Learned counsel for the petitioner fairly submits that the petitioner do not have a registration with the ESI authorities.

5. In view of the engagement of large number of workers to attend to the sanitation work, to protect interest of the workers with reference to availment of benefits of the Provident Fund Scheme and the ESI Scheme, mandatory conditions of enrollment with Provident Fund and ESI authorities is inserted. Such a condition is in public interest. It is already incorporated in tender conditions. If bidders are not qualified, there is no option but to cancel the tender process and go for fresh tenders. Thus, I do not see any error in the 2nd respondent Municipality taking a decision to go for fresh tenders when participants have not fulfilled the requisite criteria as prescribed. However, I see merit in the contention of the learned counsel for the petitioner that the participants should have been informed of the reason for cancellation of tender. If reasons are spelt out clearly, the participants would not even venture to participate on further occasions, if they do not fulfill the requirements or take steps to get enrollment with the Provident Fund and ESI authorities. I hope and expect that in future, at least appropriate steps would be taken by the 2nd respondent Municipality in informing the participants, if any tenders are

cancelled for some technical reasons. The 2nd respondent Municipality shall also give response to the application filed by the petitioner for seeking reasons for cancellation of the earlier tender notifications.

6. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 1st October, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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Date: 1st October, 2015

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