

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

**WRIT PETITION Nos.3880, 3896, 3919, 3926, 3935, 3948, 3969, 3983, 4440, 4328,
4374 and 9206 of 2015**

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COMMON ORDER :

As the issue involved in all these writ petitions is one and the same, they are being disposed of by way of this Common Order.

2. All these writ petitions are filed declaring the impugned tender notifications dated 09.02.2015 issued by the 3rd respondent Corporation inviting tenders from registered 'Out Sourcing Agencies' to award Sanitation Contract on Out Sourcing basis in Kadapa Municipal Corporation for a period of 12 months without setting apart first a portion of Sanitation Work for allotment of the same to the Self Help Groups, Common Interest Groups/Societies/Unions etc., as arbitrary, illegal and contrary to the guidelines framed through the G.O.Ms.No.581, MA, Municipal Administration and Urban Development (G2) Department, dated 06.11.1995 and also the G.O.Ms.No.30, MA Municipal Administration and Urban Development (G2) Department, dated 18.01.2000 and also the directions issued by this Court in similar writ petitions i.e., W.P.No.38081 of 2012 & batch on 26.02.2013.

3. Counter affidavit is filed by the 3rd respondent Corporation denying the allegations in the affidavit filed in support of the writ petition and admitted the fact of entrustment of a portion of sanitation work to the Societies formed by the sanitary workers belonging to S.C/S.T Community without the necessity of participating in tenders for securing improvements in the efficiency of sanitation as per G.O.Ms.No.30 Municipal Administration and Urban Development, dated 18.01.2000. It is also admitted in the counter that the 3rd respondent had issued the tender notice dated 30.06.2014 for entrustment of sanitation work without allotting the percentage of work. It is stated that while the tender process is in progress in pursuant to tender notice dated 30.06.2014, by virtue of orders in W.P.No.18912 of 2014 directing this respondent to follow G.O.Ms.No.30, dated 18.01.2000 and set apart a portion of sanitation work being allotted to the

societies on nomination basis, the said notice dated 30.06.2014 has been cancelled with a view to implement the orders of this Court by setting a part of sanitation work for being allotting the same to the societies without participating in the tenders. It is stated that in continuation of the processing the part of sanitation work to the societies, the contract workers with a strength of 110 in number out of 664 of the contract works are allotted to the societies who are the petitioners in W.P.No.18769 of 2014, as per the orders passed by this Court in the said writ petition by implementing the G.O.Ms.No.30 MA & UD dated 18.01.2000 by setting apart a portion of 15% of the work to the societies formed by the S.C and S.T Safai Karma Charila Societies. It is further stated that in view of the orders passed by this Court in W.P.Nos.18912 of 2014 and 18769 of 2014 and also in accordance with the orders issued by the Government of Andhra Pradesh in G.O.Ms.No.30 MA & UD dated 18.01.2000 setting apart a portion of 15% of the work to the societies formed by S.C and S.T, this respondent has issued the impugned notifications dated 09.02.2015 of sanitation work to the societies with the strength of 561 contract workers out of 664 by setting apart 15% of the work to the Societies formed by the S.C and S.T Safai Karmacharla Societies. As such, this respondent has followed G.O.Ms.No.30, dated 18.01.2000 including the orders passed by this Court in W.P.No.38081 of 2012, dated 26.02.2013.

4. Reply affidavit and additional reply affidavits are filed to the counter affidavit filed by the 3rd respondent stating that the 3rd respondent has not taken any decision with regard to apportionment of 15% of sanitation work to the petitioners and also stated that a resolution dated 10.03.2015 is passed by the Standing Committee of the 3rd respondent for setting apart 15% of sanitation work to the petitioners.

5. Heard Sri V.R.Reddy Kovvuri, Smt. S.Parineeta, learned counsel for petitioners as well as Sri S.D.Goud, learned Standing Counsel for 3rd respondent Corporation.

6. Sri V.R.Reddy Kovvuri, learned counsel for the petitioners submits that though G.O.Ms.No.30, Municipal Administration and Urban Development (G2) Department, dated 18.01.2000 provides for entrustment of a portion of the sanitation work to the Societies formed by the Sanitary Worker Union without

the necessity of participating in the tenders, for securing improvement in the efficiency of sanitation subject to the modalities framed through G.O.Ms.no.581, MA & UD (G2) Department, dated 06.11.1996 and also in spite of orders of this Court in W.P.No.38081 of 2012 and batch on 26.02.2013, without setting apart a portion of work for sanitation workers on nomination basis, the 3rd respondent has issued impugned tender notifications, which are illegal. He would further contend that it is only stated in the counter affidavit that 15% of the sanitation work has been earmarked for allotment, on nomination basis to the societies like that of the petitioners, but the 3rd respondent Corporation has not taken any decision with regard to apportionment of portion of work to the petitioners. He further contends that there is no bar that only 15% of sanitation work should be earmarked to the societies like petitioners. He further contends that it is always open to the municipality to entrust sanitation works beyond 15% if the municipality chooses to do so. In support of his contention, he relied on the judgment reported in **Dalitjathi Labuor Contract Co-op. Society, Hyderabad v. Commissioner, L.B.Nagar Municipality, Ranga Reddy District and another**

7. Sri S.D.Goud, learned Standing Counsel for the 3rd respondent-Corporation has advanced his arguments basing on the averments in the counter affidavit.

8. This Court in judgment reported in **Dalitjathi Labuor Contract Co-op. Society, Hyderabad v. Commissioner, L.B.Nagar Municipality, Ranga Reddy District and another (supra)** held as follows:

“5. After perusing the provisions referred to hereinabove carefully, I am convinced that though G.O.Ms.No.30, dated 18.6.2000 does not specifically mention 15% reservation for labour contract societies of Scheduled Castes, Scheduled Tribes and sanitation workers, having regard to the phraseology in paragraph 3 of the said Government Order that “entrustment of a portion of sanitation work”, it is reasonable to infer that what was intended was to give 15% reservation for the societies like the petitioners. Be it noted, G.O.Ms.No.30, was issued in June,2000 and by that date Rule 3(2) of the Rules was very much on the statute book. Whether or not the Government Order mentions specifically, I am convinced that an obligation is cast on the municipality to reserve at least 15% of the sanitation works for entrustment to labour contract societies. However, I may hasten to add that it is always open to the municipality to entrust sanitation works beyond 15% if the municipality chooses to do. Whatever be the case, there shall be entrustment of 15% of sanitation works to the societies such as petitioners without participating in the tenders.”

Paragraph 2 of G.O.Ms.No.475 M.A, Housing, Municipal Administration & Urban Development (E1) Department dated 28.08.1989 reads as follows:

“2.The Government have examined the matter in detail in terms of the Orders of the A.P.High Court, and decided that before issuing suitable amendments to the Tender Rules etc., as ordered by A.P.High Court, a consolidated executive order be issued specifying the various concessions in allotment of works in Municipalities and Corporations. The Government accordingly direct that the following concessions shall be given to the members of the Labour Contract Co-operative Societies formed of Scheduled Castes, Scheduled Tribes and Wadders and Individuals belonging to these communities who happen to be retrenched or unemployed engineers while allotting works in Municipalities and Corporations in the State.

i).....

ii).....

iii).....

iv).....

v) Atleast 15% of the works may be reserved to these Societies, and the individuals who happen to be unemployed or retrenched engineers belonging to S.Cs., S.Ts., and Wadders Communities.”

This Court, by Common Order dated 26.02.2013 in W.P.No.38081 of 2012 and batch observed that the Municipal Corporation therein will first announce the units/wards within its area of operation, which are set apart for allotment of sanitation work to self-help groups/common interest groups/societies/unions etc and thereafter for the rest of the areas/wards in the corporation only, the tender system should be finalized.

I have also occasion to deal with similar matter in W.P.Nos.29028 of 2014 & batch and basing on the Rule 3 (2) of Municipalities Tender Rules, 1967 (for short ‘the Rules of 1967’) contained in G.O.Ms.No.475, dated 28.08.1989 disposed of the same on 19.02.2015 by way of common order, by following the said Rule read with G.O.Ms.No.30, dated 18.01.2000. It is pertinent to note here that the tender rules contained in G.O.Ms.No.475, dated 28.08.1989 are statutory in nature. This Court in the judgment reported in **Dalitjathi Labuor Contract Co-op. Society, Hyderabad v. Commissioner, L.B.Nagar Municipality,**

Ranga Reddy District and another (supra) has also observed that the Rules of 1967 are statutory in nature.

It is stated in the counter affidavit of the 3rd respondent that it has earmarked 15% of the work to the societies formed by the S.C and S.T Safai Karma Charila Societies. Though it is observed in **Dalitjathi Labuor Contract Co-op. Society, Hyderabad case**, that the 3rd respondent can allot more than 15% of the work to the petitioners societies if they choose to do, this Court cannot issue mandamus directing the 3rd respondent Corporation allot more than 15% of the subject work to the petitioners.

In view of the above, the petitioners cannot have any grievance for allotment of subject works in their favour up to 15% by the 3rd respondent Corporation and it is for the 3rd respondent Corporation to take a decision and they have taken decision as per the Orders of this Court in W.P.Nos.18912 of 2014 and 18769 of 2014. This Court cannot issue writ of mandamus fixing the percentage of work to be allotted to the petitioners beyond 15% as per G.O.Ms.No.30, dated 18.01.2000.

In view of the above facts and circumstances and also in view of the orders passed by this Court in similar matters, and also in view of the averments in the counter affidavit regarding decision being taken by the respondent Corporation for allotment of 15% of the works to the petitioner societies, I do not see any reason to entertain these writ petitions. These writ petitions are devoid of merits and same are liable to be dismissed.

Accordingly, all the writ petitions are dismissed. Interim orders granted on 24.02.2015 shall stand vacated. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in these writ petitions, shall stand closed.

A.RAJASHEKER REDDY, J

01.05.2015

kvs

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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