

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**THURSDAY, THE SIXTEENTH DAY OF JULY TWO THOUSAND
AND FIFTEEN**

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.17703 of 2015

Between:

M/s. Prabhu SC, ST Sanitary Labour Welfare Society, Ongole, rep.
by its president Kornepati Mohan Rao, s/o. Atchaiah, Dhravari
Kunta, Ongole, Prakasam District.

.. Petitioner

AND

The Ongole Municipal Corporation, rep. by its commissioner,
Ongole, Prakasam District and others.

.. Respondents

The Court made the following:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.17703 of 2015

ORDER

Heard learned counsel for the petitioner and learned Standing Counsel for the first respondent corporation.

2. Petitioner is a Society undertaking the work of sanitation in Ongole town. The Ongole Municipal Corporation issued tender notification on 13.03.2015 calling for tenders for doing sanitation work in 5th Division of the Municipal Corporation. Petitioner filed tender schedule along with a copy of demand draft obtained by him on 24.03.2015 for a sum of Rs.81,700/-. Petitioner was found to be the successful auction bidder and accordingly, by letter dated 27.04.2015, petitioner was asked to submit the original of the demand draft uploaded by him along with the application. Since petitioner did not furnish the original of the demand draft, further notice was issued on 13.05.2015 granting 7 days time to him to furnish the original of the demand draft. Alleging that the action of respondents in not receiving the Employees' Provident Fund Security Deposit along with the demand draft as illegal, this writ petition is filed.

3. Learned counsel for the petitioner contends that amount was paid by way of demand draft and a copy of the original

demand draft was furnished to the respondents and therefore, it was illegal on the part of the respondent Corporation in not awarding the contract in his favour.

4. On instructions, learned Standing Counsel for the first respondent Corporation submits that the notice itself is very clear that the Municipal Corporation wanted the original of the demand draft of Rs.81,700/- and as the same was not submitted, petitioner was given two notices, in spite of it, he has not furnished the original of the demand draft and therefore, the question of award of contract to the petitioner does not arise.

5. It is not in dispute that along with the tender document, petitioner has to submit the proof of payment of an amount of Rs.81,700/- and has to upload the particulars of the demand draft through which the said amount was paid. Though the particulars of the demand draft were uploaded, after finalization of the tenders when the petitioner was informed that he was successful bidder, he did not submit the original of the demand draft. The amount of Rs.81,700/- was required in accordance with Clause 6 of the tender notification. This is an amount equivalent to one month of contribution towards Employees' Provident Fund Security Deposit. Thus, the essential condition for the valid submission of the tender was not satisfied by the petitioner and in spite of giving sufficient time, he did not furnish the original of the demand draft. Unless the essential condition is fulfilled, petitioner cannot mandate the respondent Corporation to award the contract to him. In fact, even though the notice was clear and that sufficient time was granted, petitioner failed to avail the same.

6. Therefore, I do not see any illegality in not awarding the contract to the petitioner and the petitioner cannot mandate the

respondent Corporation to award contract to him when he failed to fulfill the conditions of tender notification and failed to avail the opportunity afforded to him. Therefore, the relief sought for by the petitioner cannot be granted and the Writ Petition is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

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P.NAVEEN RAO, J

16th July, 2015
sj