

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.14798 of 2016

ORDER:

This writ petition is filed questioning the action of the 2nd respondent-The Telangana State Civil Supplies Corporation Ltd., in awarding the contract of transportation of food grains and pulses under Stage-1 for the year 2016-2017 with respect to the Khammam District.

The averments in the Writ Petition and the submissions of the learned counsel for the petitioner in brief are –

- 1) The tender notice was issued as an e-Procurement tender and in terms of invitation to tender notice dated 14.03.2016, the bidders would have to strictly adhere to and satisfy the notified tender conditions.
- 2) The bidders shall submit their eligibility and qualification details, Technical bid, financial bid etc., in the online standard formats displayed in e-Procurement website. The bidders shall also upload all the scanned copies of all the relevant certificates, documents etc., in support of their eligibility criteria/technical bids and other certificates/documents in the e-Procurement website.
- 3) The bidders shall sign on the statements, documents, certificates uploaded by them, owning responsibility of their correctness/authenticity. The bidders shall attach all the required documents for the specific tender after uploading the same during the bid submission as per the tender notice and the bid documents.
- 4) After submission of bid through online, the bidders to submit the copies of all documents forming part of technical bid on or before 29.03.2016.

It is the specific contention of the learned counsel for the petitioner that the 3rd respondent had violated the Condition Nos.4, 6 and 16-B of

the terms and condition of the tender notice.

- a) Elaborating further on the Condition Nos.16-B and 26, the learned counsel for the petitioner, by making a reference to the tender documents filed by the 3rd respondent, points out that the 2nd page of the Technical Tender Form (Annexure-I) was signed by the Managing Partner for and on behalf of Sri Jyothi Lorry Transport.
- b) Likewise, in terms of tender condition No.26, a bidder to be qualified shall own at least 12 vehicles, in addition he should be able to provide 12 leased / hired vehicles. In case of hired vehicles the details of owned vehicles and hired vehicles are required to be set out in Annexure-IV(A) and Annexure-IV(B). The Annexure-IV(B) which is furnished along with the tender document by the 3rd respondent is signed by the Managing Partner for and on behalf of Sri Jyothi Lorry Transport. In other words, the bid submitted by the 3rd respondent failed to fulfil the essential condition under Sec.16(E) r/w Condition No.26 as he has failed to furnish the details of the hired vehicles.
- c) It is the specific contention of the petitioner's counsel that the bid submitted is invalid bid as the 3rd respondent had failed to fulfil the condition No.26 of having 24 vehicles at his command (12 owned and 12 leased / hired vehicles).
- d) Learned counsel specifically points out that the copies of lease deeds filed by the 3rd respondent contained rubber stamps and signatures of 'for Sri Balaji Road Lines' represented by its Proprietor and 'for Sri Jyothi Lorry Transport' represented by its Managing Partner. It is the specific contention of the learned counsel for the petitioner that the said lease documents could not have been considered for the purpose of Annexure-IV (B) of 3rd

respondent having 12 leased / hired vehicles at his command. Learned counsel places reliance on the judgment of the Supreme Court reported in **W.B. State Electricity Board Vs. Patel Engineering Co. Ltd., and Others**^[1], to contend that as the 3rd respondent's bid is not being in conformity with the terms and conditions of the tender notification, ought to have been rejected.

The learned counsel Sri T. Mahender Rao, appearing on behalf of 3rd respondent submits that as the deponent of the counter affidavit being the proprietor of the 3rd respondent's firm and also being the Managing Partner of the firm 'Sri Jyothi Lorry Transport' a mistake has been occurred in affixing the rubber stamp at Page 2 and on the Annexure –IV (B) by affixing the rubber stamp of Sri Jyothi Lorry Transport instead of Sri Balaji Road Lines represented by its Proprietor. The mistake is purely inadvertent and that by itself cannot be a ground for disqualifying the petitioner. Further, though the petitioner had uploaded the lease documents and further produced the original lease documents for the scrutiny of the 2nd respondent-Corporation, while submitting Xerox copies their staff had affixed the rubber stamp of Sri Jyothi Lorry Transport on the first page of the lease deed which was in fact unnecessary. The same is only purely a clerical error which by itself would not invalidate the bid submitted by the 3rd respondent. On clarification being sought by the 2nd respondent Corporation, particularly at the instance of the writ petitioner, the petitioner in W.P.No.10837 of 2016 produced the original lease document which contains only the rubber stamp and signature of 'Sri Balaji Road Lines' represented by its Proprietor. He further submits that the rates quoted by the 3rd respondent are cheaper by about 17% less *vis-a-vis* the rates quoted by the petitioner, thus saves about Rs.100,65,965-52 ps., Hence, he prays for dismissal of

the writ petition.

Learned counsel for the 3rd respondent also places reliance on the judgments reported in **M.V.V.Satyanarayana Vs. Engineer in Chief (R&B) Hyderabad & Another**^[2]; **Sri Sai Sanitation Social Service Organisation Vs. Government of A.P. & Others**^[3]; **Precision Infratech Ltd., Ahmedabad, Gujarat Vs. A.P. Genco Ltd., Hyderabad & Others**^[4]; **P.L. Reddy & Company Vs. Government of AP & Others**^[5]; **Paidala Thirupathi Reddy and Brothers Vs. Engineer in Chief, R&B, Administration & N.H., Hyderabad and others**^[6]; **PBR Select Infra Projects Vs. Commr. Of Tenders & Others**^[7] and **Nivitha Enterprises and others Vs. APCPDCL, Hyderabad and others**^[8].

The above judgments are quoted by the learned counsel for the 3rd respondent to contend that

- i) A dogmatic approach in evaluating the technical bids would result in placing excess burden on the system and which certainly affects the public interest. (**M.V.V.Satyanaayana Vs. Engineer in Chief (R&B), Hyderabad & another**) (2 supra)
- ii) The respondent authorities are empowered to seek clarification and can ignore minor deviations, if ultimately the same is likely to benefit the organisation. (**Sri Sai Sanitation Social Service Organisation Vs. Government of A.P. & Others**) (3 supra)
- iii) As long as the essential conditions are satisfied by a bidder, even if there are some deviations need not be insisted for strict adherence. (**Nivitha Enterprises and others Vs. APCPDCL, Hyderabad and others**) (8 Supra)

The judgments cited by the learned counsel for the 3rd

respondent were distinguished by this court in **P.L. Reddy & Company Vs. Govt. of A.P. & ors.**, (5 Supra) as applicable to the cases where corrections in the tender documents were permitted after the stipulated date and thus not applicable to the present set of facts.

Learned counsel for the 2nd respondent-Corporation Sri A. Jagan by submitting record to the court opposed the writ petition and prays for dismissal of the writ petition as lacking *bona fides* and refuses the allegations made by the petitioner. He would further contend that this Court having perused the records in W.P.No.10837 of 2016 refused to extend the interim order earlier granted and in fact the writ petition now stands dismissed. It is also submitted that the W.A.No.264 of 2016 filed against the refusal of interim order granted by this Court was also not entertained and further the 3rd respondent had stood as L-1 by quoting minus 0.26, whereas, the petitioner quoted excess by +17.55% and thus accepting the bid of the 3rd respondent is beneficial to the 2nd respondent Corporation and in public interest, especially considering the fact that the 2nd respondent is engaged in transportation of scheduled commodities for public distribution.

Having considered the respective submissions the question which falls for consideration before this Court is whether in the facts of the case awarding of the contract by the 2nd respondent in favour of the 3rd respondent is liable to be interfered with.

It is settled law that it is ultimately for the authorities to satisfy with respect to various aspects of the tender conditions and interference of the court is limited to ensuring adherence to the *Wednesbury* principles of reasonableness and the judicial review is permissible in only limited circumstances. The well settled principles of judicial review have been succinctly culled out by a single judge of this court in **Precision Infratech Ltd., Vs. A.P. Genco Ltd.**, (4 supra)

and does not require any repetition. Keeping the above principles in mind if one examines the present case the explanation submitted by the 3rd respondent that the affixture of rubber stamp of 'Sri Jyothi Lorry Transport' at page 2 as well as on the Annexure-IV (B) by mistake commends acceptance. It may be noted that the bidders are required to submit the bid online by filling the e-document in the prescribed form. It is not the case of either the petitioner or the 2nd respondent that the bid was not submitted by the 3rd respondent. In other words the bid was submitted by the 3rd respondent in online and while submitting the documents in terms of the requirement of tender notification, signatures were affixed by A.Nagaraju, the proprietor of 3rd respondent. As two rubber stamps were put at page 2 and Annexure-IV(B) of 'Sri Jyothi Lorry Transport' the same individual signed as he is also the Managing Partner of Sri Jyothi Lorry Transport. However, the original lease deeds which are part of the record disclose the respective truck owners had entered into lease agreement agreeing to lease their respective vehicles to the 3rd respondent. When this Court scrutinises the original stamp paper vis-a-vis the Xerox documents submitted, which were placed on record by the 3rd respondent, the respective stamp serial number and the date of issue and the person to whom the same is issued etc., tally in all respects. In the Xerox copy submitted there is an additional stamp of Sri Jyothi Lorry Transport signed by A. Nagaraju, Managing Partner also in addition to Sri Balaji Road Lines stamp and signature. However, the recitals in document read the lease deed having being executed by lessor in favour of Sri Balaji Road Lines represented by Proprietor. The additional stamp even assuming the same is present on the lease deed by itself cannot invalidate the lease transaction as long as the same is genuine. In the original documents, which have been submitted to the Corporation, significantly the additional rubber stamp which is present on the Xerox copy is absent. In such circumstances the explanation offered by the

learned counsel for the 3rd respondent that by inadvertence the rubber stamp of Sri Jyothi Lorry Transport was affixed on the Xerox copies which were submitted to the Corporation sounds plausible. Whatever may be the reason once the original documents which were submitted are in conformity with the online application, the bid of the 3rd respondent cannot be said to be an invalid bid. Even assuming for argument sake that there is some element of ambiguity and on verification the respondent corporation is satisfied about the genuineness of the bid received and the competency of the bidder, the 2nd respondent taken the decision in the interest of public especially considering huge price difference, cannot be said to be arbitrary and illegal. In the facts of the present case the writ petition lacks merits and does not deserve consideration.

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

CHALLA KODANDA RAM, J

Date:27.06.2016
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[\[1\]](#) (2001) 2 SCC 451

[\[2\]](#) 2008 (1) ALT 715

[\[3\]](#) 2009 (5) ALT 653

[\[4\]](#) 2009 (5) ALT 702

[\[5\]](#) 2011 (4) ALT 20

[\[6\]](#) 2011 (5) ALT 664

[\[7\]](#) 2013 (1) ALT 487 (DB)

[\[8\]](#) 2013 (4) ALT 209