

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.37522 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue a writ order or direction one more particularly in the nature of Writ of Mandamus declaring the decision making process of the 1st and 2nd Respondents in

A. initiating the process of invitation of global tenders in regard to the project of strengthening, deepening and installation of mechanical coal handling facilities at general cargo berth in the outer harbor of Visakhapatnam Port on BoT basis vide global tender notice ICME/2008-09 by GCB notification dated 15.09.2008,

B. resulting in the award of the said contract dated 10.06.2010 to the Respondent No.3 for a tenure of 30 years followed by series of relaxations and exemptions of mandatory and essential conditions of the tender pertaining to handling and movement of cargo,

C. enabling movement of the cargo by road and continuing such exemptions on the basis of the permission accorded by the 2nd Respondent as arbitrary and illegal, offending Art.14 of the Constitution of India, constituting a departure and deviation from the notified essential terms of the tender and norms professed to be followed by the Respondent Nos.1 & 2 in regard to the award of the project and execution of the project being contrary to the terms of the concession agreement dated 10.06.2010 and quash the same as such with a further direction to the 2nd Respondent to re-notify the project afresh for global tender duly incorporating the factor of movement of cargo by road to enable fair and equal participation of all bidders in such process and pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case.”

2. Heard and perused the material on record.

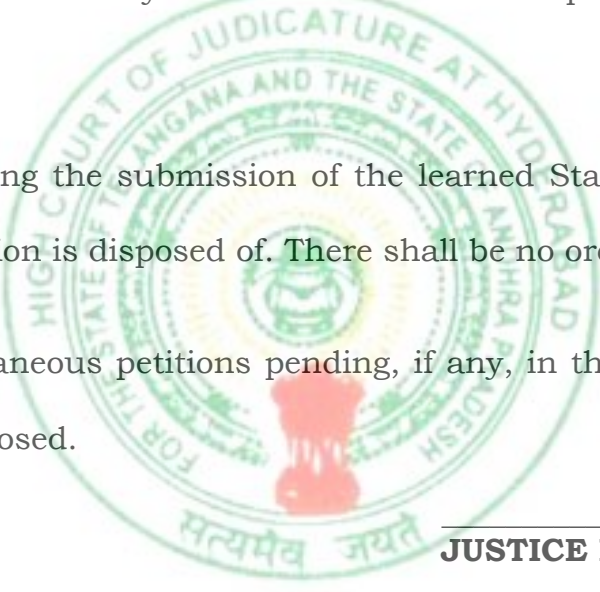
3. Case of the petitioners is that under the guise of the road movement permission recommended by respondent No.2 vide letter No.IENG/EE(PP)/GCB/Pt-IX/226, dated 7.4.2014, respondent No.3 has been continuously moving the entire parcel of cargo of the vessels by road and if respondent No.3 is continued to be permitted movement of cargo by road, the petitioners would be put to severe loss and injury.

4. Learned Standing Counsel appearing for respondent No.2 submitted that the said allegations are not true and respondent No.2 never permits any of the tenderers to transport the cargo by road.

5. Recording the submission of the learned Standing Counsel, the Writ Petition is disposed of. There shall be no order as to costs.

6. Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

19.12.2016
AMD



JUSTICE RAJA ELANGO

THE HONOURABLE SRI JUSTICE RAJA ELANGO



WRIT PETITION No.37522 OF 2016

Date: 19.12.2016

AMD