THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.6421 of 2016

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Between:

Sri Madha Prabhakara Rao

PETITIONER

AND

1. The State of Andhra Pradesh, rep. by its Principal Secretary, Panchayat Raj and Rural Development, Secretariat Buildings, Hyderabad, and others.

RESPONDENTS

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Panchayat Raj for respondents 1 to 3 and Sri G. Seshadri, learned counsel appearing for respondent No.4.

This writ petition is filed by the intending bidder challenging the action of the 4th respondent in receiving the tender from of the 5th respondent after the stipulated time of 2. pm., and declaring him as lowest bidder and as such the 4th respondent played fraud in awarding the contract pursuant to the tender notification dated 6.02.2016.

This Court, to verify the allegation made by the petitioner, called for the record relating to the tender notification dated 6.02.2016. The 4th respondent produced the record, particularly, maintained in relation to receipt of tenders from time to time. The record discloses that the tender of the 5th respondent was received at 1.55 pm.

Learned counsel for the petitioner on verification of the record has submitted that two entries in relation to the said tender are in one handwriting and the third entry is in the handwriting of the clerk of the 4th respondent. At that point of time, when the 4th respondent, who was present in the Court, has confronted with the said fact and submitted that except the third entry, which was made by the secretary, the entries were made by the writ petitioner himself. On further enquiry, the 4th respondent submitted that petitioner having worked as Executive Officer had access to the records, and since he was familiar with the procedure he was given access to the books.

As this is a new fact, which came to the light, the learned counsel for the Gram Panchayat was directed to get instructions whether the Secretary of the 4th respondent is willing to put the same

in writing by filing an affidavit. In response to the same, the 4th respondent had filed an affidavit sworn to by Sri D. Gopal Rao, S/o. Mohana Rao, who is the incumbent Panchayat Secretary, categorically stating that the entries were made by the petitioner and a copy of the affidavit has been served on the learned counsel for the petitioner.

The learned counsel for the petitioner on instructions from her client, submits that the petitioner had admitted that the entries have been made by him. However, learned counsel for the petitioner submits that it is the fault on the incumbent officer of the 4th respondent in allowing access to the records of the Gram Panchayat, and as such, no reliance can be placed on the same as the 4th respondent received the tender of the 5th respondent after the stipulated time.

Having considered the rival submissions, and considering the fact that there is every possibility that the petitioner being an Ex-Executive Officer of the Gram Panchayat, guide the Secretary, who is much younger to the petitioner, from time to time and in that process had allowed access to the petitioner. In the facts of the present case, and in the categorical assertion of the 4th respondent there is no contra material before this Court to come to a conclusion that 5th respondent's tender was accepted after 2 pm., particularly, in the face of the entry in the record that the said tender was received at 1.55 pm. There being disputed questions of fact, the writ petition does not deserve admission and the same is liable to be dismissed.

There is another possibility that the discrepancy in handwriting was explained by the Panchayat Secretary stating that at 1.55 pm., the 5th respondent approached and by which time every one in the office left for lunch and the present in-charge had received the same and put the time as 1.55 pm. This also being a plausible explanation, there is no merits in the writ petition.

Accordingly, the writ petition is dismissed. As a sequel, pending

miscellaneous petitions, if any, shall stand closed. No order as to costs.

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CHALLA KODANDA RAM, J.

28th March, 2016
Js.