

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9458 of 2016

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Between:

Yakub Shavali Patan

PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary, Civil Supplies Department, Secretariat, Hyderabad, and others.

RESPONDENTS

ORDER:

This writ petition is filed seeking the following prayer –

“....to issue a Writ, Order or direction more particularly one in the nature of Mandamus, declaring the Tender Notice issued by the 2nd respondent in Tender Reference No. PDS 2/Movt./FG 5 (1) Stage I Tenders/2016-17/TS, dated 14.03.2016 for transportation of Food Grains, Pulses or any other commodities for the year 2016-17 (01.4.2016 to 31.3.2017) to the extent of the Terms and Conditions, Condition No.26 (b) and Condition No.50 (a) is illegal, unreasonable and opposed to Article 14, 19, 21 of Constitution of India and consequently to direct the 2nd respondent to delete the said conditions in question i.e., Condition No.26 (b) and Condition No.50 (a) from the Tender Notice in question...”

The 2nd respondent issued tender notification dated 14.03.2016 for transportation of commodities for the period 01.04.2016 to 31.03.2017. The petitioner, being eligible person to participate in the tender, has gone through the terms and conditions of the tender notice and found condition Nos.26 (b) and 50(a) to be unreasonable. Challenging the same the present writ petition is filed.

Learned counsel for the petitioner contended that these two conditions, which mandate installation of Global Positioning System (for short ‘GPS’) devices, would be an additional burden on the petitioner and further the conditions are irrelevant in relation to the purpose for which the tender notification has been issued. It is also contended that so far as the petitioner’s owned vehicles are concerned, he is ready to install GPS devices. But, in a given situation, if he is required to hire the vehicles from the market, in that case it would be well-nigh impossible for him to ensure installation of GPS devices, and as such, the conditions are unworkable and impossible for performance, and stipulation of such conditions in the tender

document is, per se, illegal.

On the other hand, learned Standing Counsel appearing for the 2nd respondent opposes the writ petition and submits that the conditions imposed are to ensure transportation of essential commodities to reach proper destination which is the responsibility of the 2nd respondent-corporation. The condition has been imposed to enable the corporation to track the movement of vehicles online. It is also the contention of the learned Standing Counsel that it is the choice of the petitioner to participate in the tender and for some reason or the other if the petitioner feels that the conditions are onerous, he can choose not to participate in the tender. As a matter of fact, learned Standing Counsel submits that there are a large number of transport contractors, who are willing to install the devices and participate in the tender, and accordingly prays for dismissal of the writ petition.

The controversy lies in a narrow compass. This Court does not feel that this writ petition needs admission calling for written response from the Corporation.

The conditions, which are under challenge in this writ petition, read as under.

Condition No.26 (b): The successful tenderers have to install GPS devices invariably to all the dedicated vehicles failing which the contractors will be liable for termination of the contract. Any additional vehicles, if required for movement, in addition to the dedicated vehicles, vehicles with GPS devices only will be utilized for transportation under Stage-I.

Condition No.50(a): The Corporation is introducing Vehicle Tracking System in all Districts in a phased manner in order to monitor the movement of Essential Commodities under Stage-I/II to avoid any diversion. The Stage-I Contractors have to necessarily get their Vehicles installed with the GPS Devices at their own cost for implementation of GPS Vehicle Tracking System, as and when instructed by the Corporation. In case the contractor fails to install the GPS devices as instructed by the Corporation, the contractor is liable for penal action and termination of contract. TSCSCL has appointed M/s. Trans Global Geomatics Pvt. Ltd.

As supplier for supply and installation of GPS Devices to all the dedicated vehicles under Stage-I transportation for which the contractor is liable to pay monthly rental charges @ Rs.509/- per device. The District Manager is empowered to deduct the rental charges of the GPS device in and out of the transport bills payable to the Stage-I contractor, which cannot be questioned by the Stage-I contractor.”

Introduction of GPS devices is a well known concept which does not require any elaboration. GPS system enables tracking of vehicle movement on real time basis. Stipulation of condition for installing GPS devices helps the Corporation to monitor the movement of Essential Commodities under Stage-I/II to avoid any diversion and tampering of consignment in transit. GPS system would enable tracking of vehicles on minute to minute basis and the same can precisely be monitored. In the event of the vehicle being stopped at a given point beyond a particular time, the Corporation would be able to alert the respective authorities of the 1st respondent, who would be able to immediately monitor and check whether the vehicle has been stopped for the purpose of tampering with the consignment or the same is stopped for genuine reason. There are advantages in installation of GPS devices even from the point of the transport contractors, as they would be able to monitor the movement of vehicles, which would also help them to cut-down ‘time’ in transportation apart from transportation of goods in a systematic manner. The condition not being a hindrance to the petitioner, the same would help the contractor. Viewed from any angle, the conditions imposed for installation of GPS devices cannot be said to be unreasonable.

So far as the cost that is required to be incurred is concerned, it is for the petitioner to work out most competitive prices that can be offered to the corporation in which event alone the petitioner would be a successful bidder in the tender. That being a purely internal management of the petitioner, even on that count, the conditions in the

tender notification, which have been challenged before this Court, do not suffer from any vices of excessive stipulation.

In that view of the matter, the writ petition lacks of merits and the same is accordingly dismissed.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

22nd March, 2016
Js.