

HON'BLE SRI JUSTICE S.V. BHATT

W.P.Nos.21588 & 21589 OF 2014

COMMON ORDER:

Heard Sri K.Ratnam, holding for Sri K.Raghavacharyulu for petitioner.

The petitioners, in both the writ petitions, pray for the following relief:

“.....this Hon'ble Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus declaring the order of the respondent dated 25.04.2014 in rejecting the highest bid of the petitioner by canceling the auction sale in respect of notification dated 10.01.2014 to sell C+D+W Barytes from Mangampet Barytes project as arbitrary, illegal, unreasonable, irrational, bias and contrary to the principles of natural justice besides being unconstitutional while directing the respondents to complete the process of sale as per the tender notification dated 10.04.2014 and grant such other.....

The impugned proceeding reads as follows:

“Dear Sir,

Sub: Refund of Auction Deposit.

Ref: 1) E auction No.MSTC/HYD/The A.P.Mineral Development Corporation Limited/

4 Khiratabad/13-14/11042 held on 21.01.2014.

This is to inform you that APMDC Board of Corporation is not accepted and resolved to cancel the above referred e auction for sale of 15.00 lakhs of C+D+W grade.

Therefore, we had returned the auction deposit of Rs.1,25,00,000/- under UTR.No.PUNBH14115073466 dated 25.4.2014.

Kindly acknowledge the receipt of the same.”

The admitted circumstances of the case are that the respondent on 10.01.2014 issued e-auction tender notice for auction of Barytes of 15,00,000 metric tonnes of C+D+W Grade on as is where is basis at the stockyard, which is described in the e-auction notification. On 09.01.2014, the petitioner submitted the tender and also deposited Rs.2,50,00,000/- towards auction deposit with the 1st respondent. On 19.04.2014, the 1st respondent heard the petitioner on the feasibility aspects in entrusting the subject tender to the petitioner. According to petitioner, to its utter surprise, the impugned communication is sent cancelling the e-auction. Hence, the writ petition.

Sri K.Ratnam appearing for petitioner tried to persuade this Court by referring to previous instances where the petitioner was the highest bidder and the 1st respondent has been consistently not accepting the highest bid, but cancelling the tender process. It is to be noted that earlier cancellations are not the subject matter of this writ petition and this Court need refer to those instances for any purpose. E-auction dated 10.01.2014 was issued with several terms and conditions. The important condition which has bearing for the disposal of writ petition reads as follows”

“APMDC/MSTC reserves right to stop/postpone /cancel/modify the e-auction at any stage without assigning any reason whatsoever. APMDC/MSTC reserves right to accept or reject the highest rate offered in the e-auction without assigning any reasons whatsoever”.

From the above, it is very clear that the 1st respondent is not under obligation to accept a duly compliant bid or a highest bid. The petitioner made an offer and it was well within the realm of 1st respondent either to accept, refuse or cancel the very tender process. The reasons are not searched for by this Court in the judicial review under Article 226 of the Constitution of India.

The 1st respondent is selling its products through e-auction and keeping in mind its commercial interest and possible expected price, the 1st respondent can fetch and what is the actual offer the 1st respondent received and gap between anticipated and actual price, a decision could have been taken. Clause 13

referred to above certainly authorises the 1st respondent to cancel the e-auction process. Once there is authority to cancel the e-auction, this Court cannot go into the reasons why such a decision is taken by the 1st respondent.

The writ petitions fail and are, accordingly, dismissed. There shall be no order as to costs.

Consequently, pending miscellaneous petitions in these writ petitions, if any, also stand disposed of.

S.V.BHATT, J _____

Date: 19.04.2016
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