

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 11259 of 2016

ORDER:

This writ petition is filed with a prayer to declare the action of respondent in floating a new tender with a malafide intent by arbitrarily and irrationally incorporating a criteria of minimum eligibility hitherto not used, even as a contract issued under an earlier tender floated for the same purpose continues to subsist as arbitrary and irrational.

This Court passed interim order on 04-04-2016 as follows:

“ The petitioner’s grievance is that the eligibility criteria mentioned in the Tender Notification dated 18-03-2016 by respondent in Clause (5) (iv) is tailor made to suit a third party and to eliminate the petitioner and other persons similarly situated.

The counsel for petitioner placed reliance on the judgment of Supreme Court in **Michigan Rubber (India) Limited v. State of Karnataka**^[1], wherein the Supreme Court has held that a tender process could be challenged if it is issued *mala fide* or intended to favour some one. Therefore, there shall be interim stay as prayed for up to 30th June, 2016.”

According to the learned counsel for the petitioner the eligibility criteria mentioned in clause 5 (iv) of tender conditions in Tender Notification dated 18-03-2016 is suitable to third party and to eliminate the petitioner and other persons similarly situated.

Counter is filed.

Now B.G.Ravinder Reddy, Standing Counsel for Food Corporation of India submits that validity of the notification expires today and Corporation has taken a decision to modify clause 5 (iv) of Tender conditions in Tender Notification, dated 18-03-2016 and issue fresh tender notification, as validity of tender notification expires today.

Heard Sri Raghunandan Reddy appearing for the implead petitioners.

In view of the stand taken by Corporation, writ petition is disposed of by recording submission made by learned Standing Counsel for Food Corporation stating that fresh notification with amended clause 5 (iv) of tender conditions will be issued. As such, cause in the writ petition does not survive. Recording the undertaking given by learned Standing

Counsel, this writ petition is disposed of.

As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

A.RAJASHEKER REDDY,J

30-06-2016
Nvl

[\[1\]](#) (2012) 8 SCC 216)