

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN  
AND  
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**

**WRIT APPEAL No.661 OF 2016**

**JUDGMENT:** (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P.No.17550 of 2016 dated 28.06.2016 whereby the petitioner (L2) was awarded the work on his undertaking to execute the work at the lower rate quoted by the appellant herein (4<sup>th</sup> respondent in the writ petition and L-I).

The report of the Executive Officer dated 10.04.2016 records that the appellant and the 1<sup>st</sup> respondent herein were declared to have been qualified and, on opening the price bids, the appellant's bid was found to be the lowest. The Executive Officer of the Temple requested the Commissioner of Endowments (4<sup>th</sup> respondent herein) to examine and approve the bid of the appellant for issuing work order in their favour.

As has been noted by the learned Single Judge, in the order under appeal, the appellant does not fulfil the technical qualifications specified in the tender documents, and it does appear that is only the 1<sup>st</sup> respondent who fulfilled the requirements. The fact, however, remains that the competent authority to approve the bid is the Commissioner of Endowments and, while he could not have awarded the work to a tenderer who did not fulfil the conditions stipulated in the tender, it was open to him to either award the work to the only technically qualified bidder i.e 1<sup>st</sup> respondent or to call for bids afresh. This Court would not, in exercise of its jurisdiction under Article 226 of the Constitution of India, substitute its views for that of the Commissioner or take upon itself the task of awarding contracts more

so where the Statute/statutory rules confer such a power on the Commissioner.

While making it clear that the subject work cannot be awarded to a person who does not fulfil the conditions stipulated in the tender, we set aside the order under appeal to the limited extent the Writ Petition was allowed, and the relief sought for in the writ petition, i.e to declare the petitioner as L1 and to allot the above work in their favour, was granted.

Sri N.Sreedhar Reddy, learned counsel for the appellant, submits that, since the tender conditions are tailor-made to suit the 1<sup>st</sup> respondent herein, the appellant may be permitted to submit their representation to the Commissioner. In case the appellant submits their representation to the Commissioner within one week from today, the Commissioner shall examine the entire matter, including the representation submitted by the 1<sup>st</sup> respondent on 04.07.2016, the representation which the appellant shall submit within one week from today, and the report of the Executive officer, and thereafter take a decision whether the subject work should be awarded to the 1<sup>st</sup> respondent herein. The entire exercise, culminating in an order being passed by the Commissioner, shall be completed within one month from the date of receipt of a copy of this order.

The Writ Appeal is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

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**(RAMESH RANGANATHAN, ACJ)**

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**(U.DURGA PRASAD RAO, J)**

05<sup>th</sup> August 2016  
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Date: 05.08.2016

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