

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.17550 OF 2016

ORDER:-

This Writ Petition is filed by the petitioner questioning the awarding of contract, pursuant to the tender notification dated 23.01.2016, in favour of the 4th respondent for supply of workers for carrying Sri Swamy Vari Pallaki Seva & Pedda Sevas

It is the specific pleading as well as the contention of the learned counsel for the petitioner that the offer made by the 4th respondent could not have been accepted for the reason that the 4th respondent does not fulfill the essential and mandatory technical condition of having experience of similar nature of work for one year. It is the specific pleading of the petitioner that the 4th respondent has experience of supplying labour with respect to various sanitary and other works to the public sector banks, Secunderabad Station etc., but he does not have the requisite qualification as notified in the tender notification i.e., carrying of the palanquins.

On the other hand learned counsel for the 4th respondent submits that very condition which has been notified is a tailor made to suit the petitioner and in the entire combined state of Andhra Pradesh there are only two temples where the similar kind of work is available i.e., one at Tirumala Tirupathi Devasthanam and another is at 2nd respondent temple. The petitioner himself was a labour supplier all through and it is only pursuant to the tender notification issued in the previous year he acquired the qualification as notified. It is also the submission of the learned counsel for the respondent that the tender evaluation committee after evaluating the tender of the petitioner as well as the 4th respondent and after finding 4th respondents offer for carrying out the work being the lowest has selected 4th respondent for the job.

Similarly, learned Standing counsel supports the arguments of the 4th respondent.

Sri Ch. Satish Kumar, learned Standing Court for 2nd respondent, on the direction of this Court has produced the original file. The Original file was made available for perusal of the learned counsel for the petitioner and on verification he submitted that the experience certificate which has been submitted by the 4th respondent is only relating to the supply of labour for the purpose of carrying out the sanitary and other maintenance works. Perusal of the original record also confirmed the same.

Having considered the respective arguments and having perused the record, now it is not in dispute that the 4th respondent does not have the necessary technical qualification of carrying out the similar work as requisitioned by the 2nd respondent temple in the tender document. As a matter of fact, in the very tender form having a similar experience for a period of one year has been notified as a mandatory condition. Though it is the submission of the learned counsel for the 2nd respondent that on entertaining a doubt about the eligibility of the 4th respondent, the opinion of the Executive Engineer was sought and the Executive Engineer though opined that the 4th respondent does not strictly satisfy the notified condition yet considering his experience and considering the rate offered by the 4th respondent the tender may be awarded in favour of the 4th respondent. Based on the Executive Engineer's recommendation, 4th respondent was awarded with the contract.

Learned counsel for the petitioner submits that he is willing to carryout the work at the lowest rate which was quoted by the 4th respondent.

The explanation offered by the 2nd respondent cannot be

accepted, especially when in the tender notification / tender document it has been specifically stipulated that experience in similar type of work for at least one year is mandatory. In those circumstances, the Petitioner succeeds and there shall be a writ of mandamus declaring so the writ petition is liable to be allowed.

Accordingly, the Writ Petition is allowed. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this writ petition shall also stand closed.

JUSTICE CHALLA KODANDA RAM

Date:28.06.2016

SSV