

WRIT PETITION No. 43279 of 2016

Date : 26.12. 2016

Between :

Enjam Dharmaraju S/o Pullaiah
R/o H No. 1-3-14/A,
Danavaigudem park, Khammam

Petitioner

And

The State of Telangana
Rep by Principal Secretary
Municipal Administration Department
Secretariat, Hyderabad and others

Respondents

The Court made the following:



ORAL ORDER:

Petitioner claims to be Class-3 civil contractor. Commissioner, Paloncha Municipality-3rd respondent flouted online tender on 10.6.2016 for the purpose of construction of compound wall to Murredu pump house at Srinivasa colony in Palvanha municipal limits. The last date for submission of the bid documents was 15.11.2016; the price bid opening time and date was indicated as 11.00 AM on 16.11.2016. The participants have to upload the tender documents online by paying the requisite fee for processing the transaction and pay Earnest Money Deposit. They shall furnish the hard copies of those documents including original demand draft towards EMD to the competent authority before the price bid opening date and time.

2. Alleging that even though petitioner has complied with all the norms and submitted the physical copies including the Demand Draft before the opening of the price bid, his tender application was not considered illegally and the said action of the respondent municipality amounts to arbitrary exercise of power, this writ petition is filed.

3. It was asserted by the learned counsel for petitioner that petitioner has complied with all the norms, paid requisite fee and DD for EMD as required in time but without any justification his application was not considered.

4. Having regard to the assertion, the learned standing counsel was directed to produce the original record concerning online tender flouted by municipality.

5. Learned standing counsel produced the original record. He also submitted that price bids were opened on 18.11.2016. The price bid of the petitioner was not considered since before the price bid opening date and time, petitioner has not submitted hard copies of the documents required. Learned standing counsel, on instructions, further submitted that in fact the municipality has not received original copy of the Demand Draft towards EMD.

6. Perused the record. Record discloses that petitioner was disqualified on the ground that the relevant documents were not furnished within the time stipulated. Learned counsel for petitioner also fairly submits that the documents were sent through a private courier on 16.11.2016 and the same reached the office of the Municipality on 17.11.2016.

7. Having regard to these submissions, the only issue for consideration is the scope of Clause 11 of the general terms and conditions. Clause 11 stipulates that the original Demand Draft should be submitted to the Deputy Executive Engineer, Palvanha Municipality through registered post or courier or in person so as to reach him on or before price bid opening date and time. In the online tender notification, price bid opening date and time was indicated as 16.11.2016 at 11.00 AM. Thus, in terms of the entry in the tender notification read with clause No.11, it is clear that the person who participates in the tender notification, after uploading the document, has to submit the original Demand Draft and other documents before 11.00 A.M on 16.11.2016. Admittedly, petitioner has not submitted required documents before 11.00 A.M. on 16.11.2016.

8. Learned counsel for petitioner sought to contend that since the price bids were actually opened on 18.11.2016 and the documents were received on 17.11.2016, it is deemed that documents are submitted in time. I am afraid I cannot accept such a contention. On a plain reading of Clause 11 of general terms and conditions, it is clear that submission of documents has to be made before 11.00 AM on 16.11.2016.

9. I see no illegality in processing of the tender applications by respondent municipality. The writ petition deserves to be dismissed and accordingly dismissed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:26.12.2016

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HONOURABLE SRI JUSTICE P. NAVEEN RAO



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