

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.551 OF 2017

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the action of the 2nd respondent in not selecting the petitioner in the Technical Bid with regard to the allotment of contract pertaining to providing of BT Surface Road from Kanaparthi Road to Konnali SC and ST Colony of Thottembedu Mandal, Chittoor District.

2. Heard the learned counsel for the petitioner, learned Government Pleader for Panchayat Raj and Rural Development, for respondents 1 to 3 and Sri S.Lakshminarayana Reddy, learned counsel for the 4th respondent, apart from perusing the material available before the Court.

3. According to the petitioner, it is a registered firm and a Class-I Civil Contractor and undertakes various Government contract works and has vast experience. The respondents herein issued a notification on 14.09.2016, inviting tenders through online with regard to the work of providing BT Surface Road from Kanaparthi Road to Konnali SC and ST Colony of Thottembedu Mandal in Chittoor District, with estimated cost of Rs.90.00 lakhs. In response to the said notification, petitioner herein and the 4th respondent

submitted their tenders, but the respondents did not consider the tender of the petitioner on the ground that he failed to produce the certificate from the concerned Executive Engineer with regard to the existence of hot mix plant within 70km distance from worksite.

4. According to the learned counsel for the petitioner, he produced a certificate dated 06.12.2016, issued by the Executive Engineer, R&B Division, Tirupathi, issued in favour of M/s.Sri Gayathri Constructions, with whom the petitioner entered into lease agreement on 07.12.2016. The said plant location certificate issued by the Executive Engineer, R&B Division, Tirupathi, dated 06.12.2016 and the lease agreement, dated 07.12.2016, entered into with M/s.Sri Gayathri Constructions, are placed on record by the learned counsel for the petitioner.

5. On the otherhand, it is the submission of the learned Government Pleader and learned counsel for the 4th respondent that the bid was opened on 22.12.2016 and 4th respondent emerged as a successful tenderer for the subject work. It is further submitted that since the petitioner herein produced the certificate not from the concerned Executive Engineer of the Panchayat Department, the respondents did not consider the tender of the petitioner herein and there is no illegality in the said auction.

6. Condition No.5 of the tender conditions reads as under:

*“Hot mix plant within 70Km distance from worksite
(either own or lease) certified by the concerned
Executive Engineer.”*

7. According to the above said condition, the said certificate is mandatory from the concerned Executive Engineer. In the instant case, the petitioner herein, admittedly, produced the certificate issued by the Executive Engineer, R&B Division, Tirupathi, dated 06.12.2016, but not the certificate of the Executive Engineer, Panchayat Raj Department, which is the concerned department with the subject work.

8. Therefore, this Court does not find any illegality in the impugned action and the petitioner herein has not made out any case, warranting interference of this Court under Article 226 of the Constitution of India and this Court also does not find any arbitrary action on the part of the respondents herein in dealing with the matter.

9. For the aforesaid reasons, this writ petition is dismissed. No order as to costs. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

A.V.SESHA SAI, J

14.03.2017
SS