

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.Nos.34186 &34541 OF 2017

COMMON ORDER

Since the issue involved in both the writ petitions is one and the same, they are being disposed of by this common order.

Both the writ petitions are filed challenging the tender notice dated 8.9.2017 issued by the 3rd respondent, calling for tenders for transportation of paddy stocks.

The tender notice was issued for 5 sectors of Jayashankar Bhupalapalli District for selecting the transport contractors. The tenderers were asked to file the tender for each sector in a sealed cover. The tenders shall include two tenders viz., technical tender and financial tender. The said two tenders will be opened separately. It is stated in the terms and conditions that the technical tenders will be opened first to decide the eligibility of the tenders and thereafter, the financial tenders of those who have qualified in the technical tenders, will be opened. The 2nd respondent-Corporation reserved its right to accept the lowest rate quoted by the tenderers at its discretion. It is stated that the decision of the Joint Collector & EOED, TSCSCL, Jayashankar Bhupalapalli was held to be final and

binding. Though there is a provision for negotiations, it was stated in condition No.49 that no tenderer shall have the right to insist on negotiations by the Corporation at any time. There are other terms and conditions with which this Court is not concerned.

It appears that 5 tenderers filed their individual tenders in respect of V sectors and they were all qualified at the time of technical evaluation as well as price evaluation and their ultimate position is as follows:

S.No	Sector	Name of the Tenderer	Previous Year Rates		Rates Quoted by The Tenderers		% of increase over the previous rates
			Upto 8KM Per MT	Beyond 8KMs per MT per KM	Upto 8KM Per MT	Beyond 8KMs per MT per KM	
1	Jayashankar-I	Sri Rajarajeshwara Lorry Transport	200	4.85	219	3.54	-14.25
2	Jayashankar-II	Neelakanta Lorry Transport	200	3.25	189	3.06	-5.72
3	Jayashankar-III	L. Srinivas	162	2.97	171	3.88	+16.64
4	Jayashankar-IV	Tirumala Lorry Transport	200	3.25	232	3.52	+11.68
5	Jayashankar-V	Shaik Nizamuddin	200	3.25	220	4	+17.77

Since the petitioners in these writ petitions submit that no other tenderers have submitted tenders in respect of sectors III and V, their names alone remained.

It appears that three tenderers participated in Jayashankar Bhupalapalli for I & III sectors and single tenderer participated in sectors III, IV and V.

It is also noticed that the rates quoted by the lowest contractor is less than the previous rates, whereas rates quoted by the petitioners is more than the rates quoted in the earlier tenders. Keeping in view that there was only single tenderer, a decision was taken in order to give more scope and better competitive rates and accordingly, re-tender notice was issued. At that stage, the present writ petitions are filed challenging the action of respondent No.3 in not awarding contract to the petitioners.

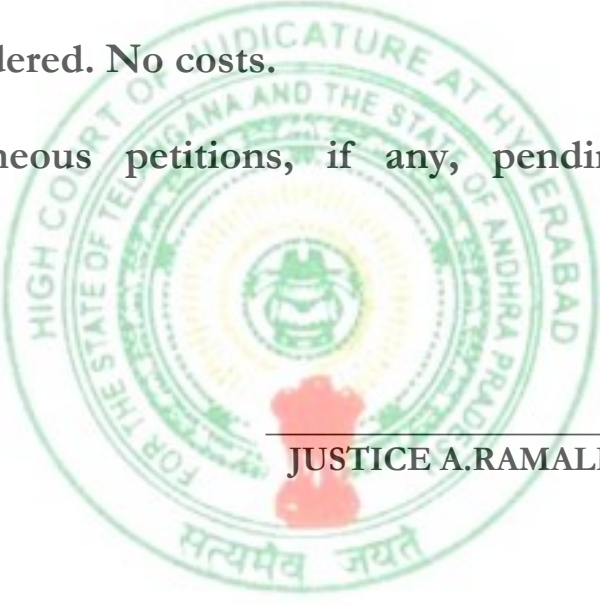
This Court called for the record and noticed that the competent authority has taken a decision to accept the tenders in respect of sectors I and II, as the rates quoted were less than the previous rates, and reject the next. Since the rates quoted for sectors III & V are more than the previous rates and since the tenders were also single tenders, the decision cannot be found fault.

In the circumstances, a decision was taken by the competent authority to issue a re-tender notice in order to invite more tenders and get better competitive rates cannot be found

fault with. This Court does not see any arbitrariness in the decision taken by the competent authority.

Accordingly, the Writ Petitions are dismissed. However, it is open to the petitioners to participate in the re-tender process. In case the petitioners do not want to participate in the re-tender process, EMD amount which was deposited pursuant to the earlier notice shall be refunded and if the petitioners want to participate in the re-tender process, their earlier EMD shall be considered. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE A.RAMALINGESWARA RAO

23rd October, 2017
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