

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

WRIT APPEAL No.233 OF 2017

JUDGMENT: *(Per Hon'ble Dr. Justice Shameem Akther)*

This Appeal is filed under Clause 15 of the Letter Patent, aggrieved by the order dated 13.02.2017 passed by the learned Single Judge in Writ Petition No.1378 of 2017.

2. The Writ Petition is filed under Article 226 of the Constitution of India to declare the e-Tenders in Tender No.TAPSO/POL/CHI/WO/PT-08/17-22 dated 03.12.2016 under Two-Bid system for award of contracts for road transportation of bulk petroleum products, as illegal, arbitrary and inequitable and violative of Articles 14 and 21 of the Constitution of India.

3. The petitioner is the owner of 6 chassis manufactured by Bharath Benz Company. The said chassis have to be fitted with 20 KL oil tanks. In pursuance of the tender notice issued by respondent No.3-Deputy General Manager (Operations), Indian Oil Corporation Limited dated 03.12.2016, the petitioner submitted the tender on 03.12.2016 on e-platform. During the informal conversation with the Marketing Division Officials of the respondent-Corporation, the petitioner came to know that they would carry forward 53 unfilled quota of Tank Trucks belonging to SC/STs offered to them, earlier in the tender notification dated 03.10.2013 to the present tender notification and also informed that they would treat both 12 KL and 18/20/24 KL Tank Trucks as one unit instead of two separate units in applying reservation policy. It is the case of the petitioner that if the unfilled quota is carried forward, the present requirement of 60 tank trucks would come down and the chances of getting the contract would be curtailed. It is also the case of the petitioner that all 18/20/24 KL tank trucks

shall form into one category, whereas 12 KL tank trucks form into separate category.

4. Respondent-Corporation filed a counter affidavit in the writ petition stating that the technical bids had already been opened and the documents are under evaluation by the tender committee; the tender was floated on 04.11.2016 and closed on 03.12.2016; the tenders were opened on 05.12.2016 and as per the previous tender conditions, if there is any unfilled quota of SC/ST, it was stated that the same would be carried forward to the next tender. The trucks having capacity of 12 KL and 18/20/24 KL are being treated as one unit, is not correct and 12 KL capacity tank trucks and 18/20/24 KL tank trucks are treated separately for applying reservation for SC/STs also.

5. It is evident from the record that there is another writ petition, i.e., W.P. No.1431 of 2017, connected to the present writ petition, i.e., W.P. No.1378 of 2017, and the learned single Judge disposed of both the writ petitions, vide common order dated 13.02.2017. Challenging the same, the writ petitioner in W.P. No.1378 of 2017 preferred the present writ appeal.

6. Heard both the learned counsels for the appellant-writ petitioner and the respondent-Corporation, apart from perusing the material available on record.

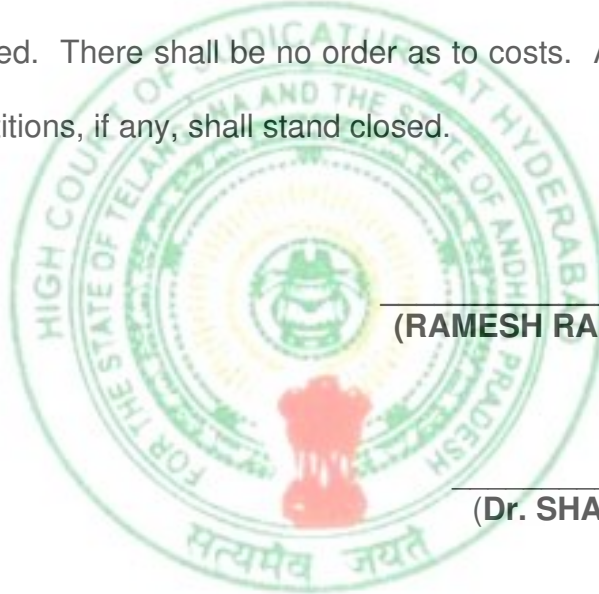
7. Learned counsel, appearing on behalf of the appellant-writ petitioner, has reiterated the averments made in the writ petition and contended that the learned Single Judge has not analysed the material on record and came to an erroneous conclusion and, ultimately, prayed to allow the writ appeal and the writ petition as prayed for.

8. On the other hand, learned counsel for the respondent-Corporation would submit that there are no merits in the contentions raised by the appellant-writ petitioner; the process of conduct of tenders is in accordance with law with the terms and conditions of the tender; as per the terms and conditions of the previous tender notification, if any unfilled quota of SC/ST, the same needs to be carried forward to the next tender, i.e., the present tender notification dated 03.12.2016; the respondent-Corporation, being a public sector organization, would abide by the guidelines of the tender with regard to reservation policy; the transportation rates estimated are different for 12 KL capacity TT and 18/20/24 KL capacity TTs, and as such, the Corporation treats 12 KL capacity tank trucks separately and 18/20/24 KL capacity tank trucks separately for applying reservation for SC/STs also; the respondent-Corporation has strictly abides by the terms and conditions of the tender notification of the previous tender and also the current tender with reference to the reservation policy for SC/ST bidders; and finally, prayed to dismiss the writ appeal.

9. There is a clear mention in the previous tender notification that in case of unfilled quota for SC/STs, the same would be carried forward to the next tender notification and the present tender notification was issued with the same stipulation. The record also shows that the respondent-Corporation has been treating both 12KL and 18/20/24 KL capacity tank trucks as different units in general category and in case of reservation for SC/ST, no prejudice is caused to the appellant-writ petitioner. The tender notification is given as per the guidelines prescribed by the respondent-Corporation. There is no substance in the submissions made on behalf of the appellant-writ petitioner. As seen from the entire record, the contentions putforth in no way infringe the fundamental rights of the appellant-writ petitioner envisaged under Articles 14 and 21 of the Constitution of India. The appellant-writ petitioner, having participated in the

tender process, ought not have questioned the impugned notification. There are no merits in the appeal. The learned single Judge has elaborately dealt with the matter and negated all the contentions raised on behalf of the appellant-writ petitioner and there is no infirmity in the order under appeal. It is also relevant to state that in the intra-Court appeal filed under Clause 15 of the Letter Patent, this Court would not interfere unless the impugned order suffers from patent irregularity. There is no infirmity in the order under appeal. Therefore, the appeal is liable to be dismissed.

10. In the result, the order under appeal is confirmed and the Writ Appeal is dismissed. There shall be no order as to costs. As a sequel, pending miscellaneous petitions, if any, shall stand closed.



(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J.)

Date: 10-03-2017

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