

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

WRIT PETITION No.13684 OF 2017

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, challenging the Termination Order bearing No.02/122(48)/2016-RM-N, dated 01.04.2017, issued by the Regional Manager, Nalgonda Region.

2. Heard the learned counsel for the petitioner and Sri A.Ravi Babu, learned Standing Counsel for respondent Corporation.

3. By way of an order under challenge, the 2nd respondent herein terminated the licence of the petitioner herein, pertaining to maintenance of Toilet blocks in Choutuppal Bus Station under ROM scheme, by forfeiting the security deposit to the Corporation funds.

4. According to the petitioner, it is a registered society under the provisions of Act No.35 of 2001 bearing Registration No.353/2012. The Telangana State Road Transport Corporation issued Tender Notification, dated 05.04.2016, inviting bids for the purpose of renovation and maintenance of toilet blocks in Choutuppal Bus Station for a period of five years. In response to the same, the petitioner herein also participated in the said tender and emerged as highest bidder and accordingly, an agreement was also entered into for a period of five years, commencing from 24.05.2016 to 23.05.2021. The Regional Manager, Nalgonda Region, issued a show-cause notice for termination, vide bearing

No. 02/122(48)/2016-RM-N, dated 22.02.2017, asking the petitioner to show-cause as to why the licence should not be terminated by duly forfeiting the security deposit to the Corporation funds, while pointing out the following alleged deviations and irregularities:

“1. Commercial tiles are used in place of 1st class quality tiles. Hence, deducted an amount of Rs.29,873.00 towards cost difference of tiles at 180.00 per sqm. Also workmen ship is not satisfactory;

2. As per the agreement RAJASHRI Branded Doors with frames are to be provided, but the agency fixed the Bison Panel Door Shutters to the old existing Departmental frames.

3. As per the agreement Paryware/Nycer/Hindware 1st class WC's are to be fixed. But Hindustan WC's are fixed.

4. As per the agreement Granite Stone urinal partitions are to be fixed in open urinals. But the agency fixed the ordinary urinal partitions.”

5. Wash hand basin and NP Bib tapes are not as per the agreement specifications.

6. It is observed in the sanctioned estimate for item No.3 reinforced brick masonry rate is 4620 per one sqm. But actual rate is 462 per one sqm. As per the actual rate amount comes to Rs.19,729.00 as against Rs.1,97,291.00 provided in the sanctioned estimate due to this the estimated value comes to Rs.6,26,148.00 as against Rs.8,03,710.00.”

5. In response to the said show-cause notice, the petitioner herein submitted an explanation on 15.03.2017, denying the contents of the said show-cause notice, while pointing out Clause (6) of the Agreement also. The Regional Manager- the 2nd respondent herein, by way of an order, under challenge, dated

01.04.2017, terminated the licence of the petitioner herein and ordered forfeiture of the security deposit to the Corporation funds.

6. Challenging the validity and legal sustainability of the said order of termination, dated 01.04.2017, this Writ Petition is filed

7. According to the learned counsel for the petitioner, the order of termination is highly illegal, arbitrary and violative of Articles 14 and 19 (1) (g) of the Constitution of India. It is further submitted that the 2nd respondent herein did not consider the contents of the explanation offered by the petitioner herein.

8. On the other hand, it is vehemently contended by the learned Standing Counsel for the respondent Corporation that there is no illegality nor there is any procedural infirmity in the impugned action of the respondents and in the absence of the same, the present Writ Petition is not maintainable and the petitioner herein is not entitled to any relief from this Court under Article 226 of the Constitution of India.

9. There is absolutely no dispute with regard to the fact that in response to the show-cause notice, dated 22.02.2017, the petitioner herein submitted an explanation on 15.03.2017, running into seven pages. A perusal of the order under challenge reveals that except indicating the explanation offered by the petitioner as one of the references, the 2nd respondent did not undertake any exercise to consider the contents of the said explanation. Thus, in the considered opinion of this Court, the said action of the 2nd respondent is highly illegal and arbitrary and cannot stand for judicial scrutiny. This ground, alone, is sufficient

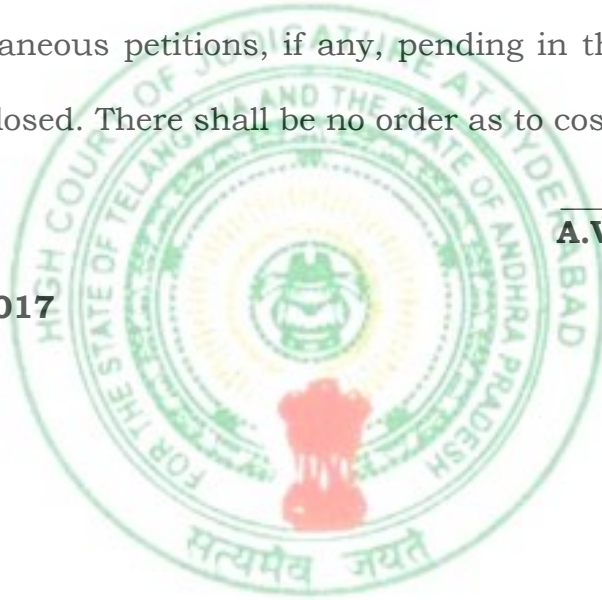
to remit back the matter to the 2nd respondent for fresh consideration.

10. For the aforesaid reasons, the Writ Petition is allowed setting aside the impugned order of termination issued by the 2nd respondent, vide proceedings bearing No.02/122(48)/2016-RM-N, dated 01.04.2017 and the 2nd respondent is directed to consider the matter afresh, after taking into consideration the explanation offered by the petitioner herein and pass appropriate orders, after giving notice and opportunity to the petitioner herein.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

APRIL 20, 2017
YVL

A.V.SESHA SAI, J



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



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Date: 20.04.2017

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