

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.30259, 30262 and 30264 of 2017

COMMON ORDER:

Heard the learned Counsel the petitioners.

These three Writ Petitions are filed by the existing transport contractors challenging the conditions in the tender notification dated 28.08.2017.

The petitioners were successful tenderers and their contract expired on 31.03.2017. At the time of entering into contract they deposited Rs.50.00 lakhs as security deposit and provided the bank guarantee of Rs.36.00 lakhs. Though the contract period ended on 31.03.2017, it was initially extended for a period of three months and later on by another three months. The bank guarantee and security deposit was extended up to 31.12.2017 on the direction of the respondents. Now by virtue of the extensions, the contract of the petitioners is coming to an end by 30.09.2017.

While so, the respondents issued a tender notification on 28.08.2017 inviting tenders for transportation of food grains, pulses or any other commodities from various places within and outside the district to various places within and outside the district under Stage I excluding the transportation to Fair Price Shop Points for the year 2017-2018 (01.10.2017 to 30.09.2018). As per the tender, the petitioners are supposed to submit the

bid security for Rs.20.00 lakhs in case the allotment is more than 6000 Mts per month and Rs.10.00 lakhs for allotment below 6000 Mts per month. The date and time for downloading the bid document commenced on 01.09.2017 at 11:30 am onwards and ends on 11.09.2017 at 5:00 pm. The last date for submission of bids is 12.09.2017. There are several other terms and conditions in the tender. The relevance clauses on which the present grievance is expressed, read as follows:

“26. Tenderers who are filing tender for Districts where monthly allotment is above 6000 Mts per month should at least have 24 trucks of 10/17 Mts capacity each (owned/hired) out of which minimum 12 trucks should be owned and 12 trucks can be owned or hired.

Tenderers who are filing tender for Districts where monthly allotment is below 6000 Mts per month should at least have 12 trucks of 10/17 Mts. capacity each (owned/hired), out of which, minimum 6 vehicles should be owned by the tenderer and the remaining 6 vehicles can be owned or hired.

In case of hired vehicles, the tenderer should furnish hire agreement with the owners for a minimum period of one year otherwise they are not eligible to participate in tenders. Trucks involved in 6A cases/diversion cases and/or other trucks belonging to their owners should not be hired. Vehicle details should be furnished in the Tender form. Tenders found without vehicle details and/or copies of the vehicle RC Books along with copy of valid RTA permits stands automatically disqualified.

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27. Tenderers should offer separate vehicles for each district tender.

In case they are filing tender for more than one district, if the same lorries are offered for more than one district, the tender filed in both the districts will be rejected out rightly without any consideration.

28. Age of lorry offered (Year of Model/Make in the RC Book) should not exceed **15 years** i.e., the lorries model earlier than **Jan 2003** will not be considered.

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32. **EARNEST MONEY DEPOSIT**

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(c) EMD of the successful tenderer stands adjusted towards Security Deposit and they should deposit the balance Security Deposit in the form of D.D. in favour of **Telangana State Civil Supplies Corporation Limited, payable at Hyderabad** from any Nationalized Bank.

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33. **SECURITY DEPOSIT & BANK GUARANTEE**

Sl. No.	Districts	Monthly Allotment	Security Deposit	Bank Guarantee
1	Vikarabad, Suryapet, Yadadri, Kamareddy, Medak, Siddipet, Adilabad, Asifabad, Mancherial, Nirmal, Jagital, Peddapally, Siricilla, Karimnagar, Warangal (Urban), Warangal (Rural), Mahabubabad, Jangoan, Jayasankar Bhupalpally, Bhadradri Kothagudem, Nagarkurnool, Jagulamba Gadwal, Wanaparthy	Below 6000 MTs	25,00,000/-	15,00,000/-
2	Hyderabad, Shamshabad (RR), Medchal, Nizamabad, Sangareddy, Mahaboobnagar, Nalgonda, Khammam.	Above 6000 MTs	50,00,000/-	30,00,000/-

Successful tenderer should submit the Demand Draft for **Rs.25,00,000/- (Rupees Twenty Five Lakhs only) for tender filed for (1) District where the district monthly allotment is below 6000 MTs per month and Rs.50,00,000/- (Rupees Fifty Lakhs only) for tender filed for (1) District where the district monthly allotment is above 6000 MTs per month** drawn on any Nationalised Bank towards Security Deposit within three days and enter into agreement. Demand Draft should be drawn in favour of **Telangana State Civil Supplies Corporation Limited**, payable at Hyderabad from any Nationalised Bank. The EMD amount furnished by the successful tenderer will be adjusted towards Security Deposit and the balance amount of Security Deposit should be furnished at the time of execution of Agreement.

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35. BANK GUARANTEE:

Successful tenderer should furnish Bank Guarantee for **Rs.15,00,000/- (Rupees Fifteen Five Lakhs only) for tender filed for (1) District where the district monthly allotment is below 6000 MTs per month and Rs.30,00,000/- (Rupees Thirty Lakhs only) for tender filed for (1) District where the district monthly allotment is above 6000 MTs per month** obtained from **Nationalised Bank** only **within 7 days from the date of receipt of appointment orders**, failing which, the Security Deposit will be forfeited besides cancellation of award of contract and blacklisting without any further notice. No correspondence will be entertained in this regard.”

In view of the above terms and conditions, the learned Counsel for the petitioners submits that in case the petitioners are successful tenderers, the existing security deposit already furnished should be adjusted towards the security deposit to be furnished as per the terms and conditions and he also submits that the prescription of security deposit and bank guarantee for tenders below 6000 Mts and above 6000 Mts would cause hardship in view of bifurcation of original ten districts as thirty one districts. He further submits that from the date of opening of bid documents on 01.09.2017, downloading and ending date when read with the last date and time for receipt of online bids on 12.09.2017 is not sufficient for transfer of existing vehicles to the respective districts as the tender conditions stipulate that the vehicles belonging to the respective districts alone would be considered for awarding of contract.

These submissions of the learned Counsel for the petitioners touch the terms and conditions of tender notice, which are applicable to all tenderers equally. This Court, in

exercise of jurisdiction under Article 226 of the Constitution of India, cannot interfere with the said terms and conditions, unless those terms and conditions are made to suit a particular tenderer, and the inconvenience of the present tenderers cannot be a ground for entertaining the present Writ Petitions.

In view of the above, these Writ Petitions are dismissed at the admission stage. The miscellaneous petitions pending in these Writ Petitions, if any, shall stand closed. There shall be no order as to costs.

07.09.2017
vs



(A.RAMALINGESWARA RAO, J)