

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

W.P. No.20814 OF 2013

ORDER:

This writ petition is filed under Article 226 of Constitution of India by Proprietor of M/s.Modani Offset Printers, Nizamabad, against Northern Power Distribution Company of A.P Limited, rep. by its Chief General Manager (P& MM), Warangal presently read as Power Distribution Company, State of Telangana for the following relief:

“..to issue a Writ of Mandamus or any other suitable Writ or Order declaring the action of the respondent in refusing to renew Vendor Registration vide Lr.No.CGM/ P&MM/ NPDCL/ WGL/ VR/ P1/ NCI/ 26/ D.No.897/ Dt.13.06.2013 as illegal, arbitrary and contrary to principles of natural justice affecting right to life and trade under Articles 14, 19 and 21 of Constitution of India and consequently direct the respondent to renew the vendors registration of the petitioner and pass such other order or orders as are deemed fit under the circumstances of the case.”

2) The brief averments of the writ petition are that the petitioner is having his business avocation in dealing with printing and general stationary articles since 2007 onwards and got vendor registration No. NCI/ 26/ 10-11, dated 05.05.2010 so as to participate in all its purchases and tenders of printing and non-printing stationary and he is supplying printing and non-printing stationary to the respondent to all its five circles viz., Warangal, Karimnagar, Khammam, Adilabad and Nizamabad including its Corporate Office in procurement of Printed and Non-printed stationary Items and issue work order to the registered vendor, who quotes lowest price and the respondent has been purchasing printing and non-printing stationary prior to 2007 by placing orders, since petitioner is generally quoting the lowest price among all participants in the tenders for supply without any complaint and to the satisfaction of the works entrusted and he applied on 02.04.2013 to

renew his vendor registration upto 30.04.2015 having paid the requisite fee of Rs.100/- but the respondent refused to renew the same by impugned letter dated 13.06.2013 on the ground of poor performance, which is per se without any basis and also for the reason that the respondent's corporate office vide letter dated 22.11.2011 stated that it is interested in procurement of three specified items i.e., 1) Hand Held Machine Paper Roll, 2) Ribbon Cartridge (Hand held Machine) 3)O&M Staff training material from the petitioner and supply to Nizamabad, Circle Office for the lowest price quoted vide work order dated 13.12.2011 within fifteen days of work order and delivered the same within the stipulated time.

3) After more than 2 ½ months of delivery of the aforesaid items, respondent issued letter dated 16.03.2012 to the petitioner complaining as if not supplied within the stipulated time i.e., by 31.12.2011 and directed him to supply within seven days from the date of receipt of said letter/ notice, though he already supplied by 27.12.2011. Therefrom when he appraised the correct facts and mistake at the end of the respondent's officials in not properly noting the supply, he was asked to ignore said letter since supplied. To avoid future complications and to maintain good business relations, he did not ask to withdraw their letter. Later even, he was given work order being successful bidder vide letter dated 13.05.2013 and complied with the same and also received payments with no complaint. It was while so, the respondent without any basis and without issuing any show-cause notice or opportunity and without considering above fact, refused to renew the vendor registration of petitioner, which is practically keeping him in block list for no fault of him and thereby same is unsustainable,

malafide and with lack of fairness and is liable to be set-aside by directing to renew his vendor registration.

4) It is also the submission of petitioner that on 05.02.2012 as the material is small in size he was asked to take back the same as such he received the same. Even on 06.02.2012, when a new quotation was called from the registered vendors, as per their requirement by showing Big Size samples, the petitioner filed quotation to the same and declared as the lowest bidder and pursuant to the work order dated 29.02.2012, he supplied the material. He further submitted that letter dated 16.04.2012 stating his performance as poor by referring to the work order dated 13.12.2011, is also unjust and thereby, seeking the relief.

5) Ex.P1 is the impugned letter dated 13.06.2013 showing that petitioner's performance is recorded as poor performance for non-supply of material as per the purchase order, thereby the renewal of vendor registration of petitioner is not considered. Even there are no reasons as to on which item, there is any non-supply of material pursuant to work order and how it is rated as poor performance.

6) The respondent, having been served, failed to file any counter though put forth appearance through standing counsel for MPDCL and there is no dispute much less by traversing specifically any of the allegations referred to in the writ petition and even the matter posted for orders by giving opportunity to respondent entity, there is no representation much less by production of any record justifying to record the performance of writ petitioner as poor in supply of work orders placed and even the writ petition averments show there is no basis to record poor performance without even mentioning as to for which item supply not made as stipulated.

7) Having regard to the above, the letter of intimating poor performance by not renewing the vendor registration is unsustainable. However, vendor registration renewal sought for as per the writ petition averments pursuant to the application dated 02.04.2013 was for a period of two years and valid upto 30.04.2015 and as the period was already expired, the relief in the writ Petition no way survives, but for to say under the guise of letter dated 13.06.2013 referred supra impugned in the writ petition, the respondent cannot keep the petitioner in block list and cannot stop renewal of vendor registration, unless there are cogent reasons to justify any action to record poor performance by specifying any particular instance of the poor performance in so writing and to justify for non-renewal, that too, by affording opportunity.

8) Accordingly and in the result, the writ petition is disposed of, so as to enable the petitioner to make a fresh application for renewal of vendor registration by payment of necessary fee for the period subsequent to 01.05.2015 for its consideration. No order as to costs.

9) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Dt.01.03.2017
knl