

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.24129 OF 2017

ORDER

Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the 3rd respondent.

The 4th respondent-Joint Collector issued tender notice dated 22.3.2017 calling for tenders for transportation of essential commodities for the year 2017-18 subject to the terms and conditions mentioned therein. As per the said terms and conditions, the technical tender and financial tender will be opened separately and those who are qualified in the technical tender, will be eligible for consideration of financial tender. The tenderers were required to furnish certain documents and enclose particulars of vehicles owned along with copies of RC books, FC, Permit, Insurance, Pollution Certificate, Road Tax and Form 24-B. As per condition No.7 of the tender, negotiations will be conducted with the lowest tenderer i.e., L1 for finalizing the tenders.

It appears that three tenders were filed, out of which, one tender was disqualified and the petitioner and the 6th respondent remained in the play. When the contract was awarded to the 6th respondent under an agreement dated 7.6.2017, the present writ petition is filed challenging awarding of work in favour of the 6th respondent.

Learned counsel for the petitioner submits that the 6th respondent did not furnish Form 24-B and though he was not a lowest tenderer, negotiations were conducted with him and after negotiations only, he became the lower tenderer.

A counter-affidavit is filed by the 5th respondent stating that the 6th respondent filed all the required documents except Form 24-B, which is summary of all documents and whenever any doubt arises in respect of other documents, it can be verified and confirmed in Form 24-B. Since it was not a compulsory document required for plying of a transport vehicle, the same was not insisted. It is also stated that a representative from RTA, Kurnool, who is also member in the District Tender Committee, examined the documents and declared the 6th respondent and the petitioner as qualified candidates in technical tenders.

Since the respondents have given description as to why production of Form 24-B is waived, this Court cannot hold that the same is irregular.

Coming to the other point, Clause No.7 of the tender notice reads as follows:

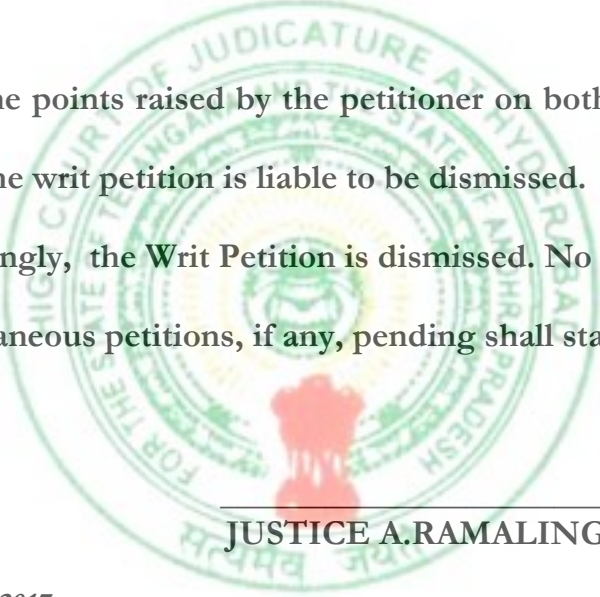
“7.Negotiations will be conducted with the lowest tenderer i.e. L1. (However, if felt necessary the J.C & E.O.E.D, may conduct negotiations with all other tenderers for finalizing the tenders. The tenderers should not insist for conducting negotiations.”

A perusal of the above clause makes it clear that when the Joint Collector has got discretion either to conduct negotiations with the lower tenderer or with all other tenderers. It is no doubt true that the petitioner quoted the rate Rs.15.99, whereas the 6th respondent quoted Rs.16.00 initially, but after negotiations, the 6th respondent reduced his rate to Rs.14.30 whereas the petitioner reduced his rate to Rs.14.99. In those circumstances, the 6th respondent was declared as lowest tenderer.

Since the points raised by the petitioner on both the counts are not tenable, the writ petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE A.RAMALINGESWARA RAO

18th September, 2017
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