

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.30209 OF 2017

ORDER:

Heard learned counsel for petitioner.

The petitioner submitted the tender pursuant to the tender notice issued by the fourth respondent on 06.07.2017 inviting online tenders under e-procurement system for execution of work of "Minor Irrigation – Repairs and Beautification to Lakaram Tank Converted as Mini Tank Bund in Khammam Town, Khammam District" with an estimated contract value of Rs.3,69,89,918/-. The period of completion of work is stipulated as six months. The date of opening of the technical bids and price bids were stipulated at 5.00 p.m., on 17.08.2017 and 21.08.2017 respectively, but the petitioner states that neither the technical bids nor the price bids were opened on the said date. He further states that the petitioner raised objections with regard to the documents submitted by the fifth respondent through its letter dated 21.08.2017 and without considering the same, when the bid of the fifth respondent was found to be valid and eligible for award of the work, the present writ petition is filed.

The learned counsel for petitioner submits that the petitioner fulfilled all the conditions stipulated in the tender notice and submitted all the required documents along with the tender and in spite of the same, its tender was not considered and though the tender of the fifth respondent was defective, it was considered.

Since this is a matter relating to the award of the works pursuant to the tender notice, this Court called for records from the Government Pleader. The Government Pleader submitted that with regard to the required documents, the petitioner has not submitted the documents relating to condition No.1.2 of the bid documents with regard to availment of Corporate Debt Restructuring (CDR)/Strategic Debt Restructuring

(SDR) during the last five financial years. The Government Pleader submits that in view of the non-uploading of the required documents, the tender of the petitioner was disqualified. Learned counsel for the petitioner submits that as per the checklist of the documents, which are required to be accompanied along with the tender, the petitioner furnished all the documents and Sl.No.11 thereof deals with 'Proof of liquid assets as per Annexure-I(B)/1(A) and the petitioner furnished the said document also.

The learned Government Pleader produced before this Court a copy of the online documents required to be uploaded and it indicates twelve documents, which are held to be mandatory. Out of the 12 documents, document No.7 deals with 'Availability of Working Capital for the work Liquid Assets credit facility, along with availment of CDR/SDR' and the petitioner has not enclosed the document with regard to CDR/SDR mentioned in paragraph 1.2 of the tender documents. The learned counsel for the petitioner submits that since the petitioner did not avail any loan nor asked for CDR/SDR, there is no need for uploading such document. The learned Government Pleader produced before this Court the uploaded documents of the fifth respondent. In view of the mandatory nature of the said document indicated in online platform, the non-production of such document disqualifies the petitioner.

Lastly, the learned counsel for the petitioner submits that though the petitioner raised objections with regard to the disqualification of the fifth respondent on 21.08.2017, the same was not considered and the bid of the fifth respondent was accepted. The validity of the bid of the fifth respondent can be examined by this Court and the petitioner qualifies himself in the bidding process. The validity of the fifth respondent cannot be examined at the instance of the petitioner, who is not qualified in the bidding process. Even otherwise, on facts also, the petitioner did not submit the objections on 21.08.2017 and he sent the objections on

24.08.2017 by Registered Post, which was received by the respondents on 28.08.2017.

In view of the same, this Court does not see any ground to entertain the present writ petition and the writ petition is accordingly dismissed at the admission stage.

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

A.RAMALINGESWARA RAO, J

15.09.2017
pln

