

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 10177 of 2017

Order:

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner is a successful bidder to run cycle/vehicle stand at Vegetable Market, Lakshmipuram, Warangal for the period from May 2015 to May 2016 for a sum of Rs.17,00,555/-. When the respondents, during the continuance of the contract period, tried to evict the petitioner, he filed O.S.No.13 of 2016 on the file of the Principal Junior Civil Judge, Warangal, seeking permanent injunction, wherein a temporary injunction was initially granted and it was vacated on 24.08.2016. He states that he faced problems during the rainy season from July to December 2015, as the Iron Godowns were filled with water and the vehicle owners were not parking the vehicles. The petitioner was allowed to continue the contract for the next two years also on deposit of the same amount and accordingly he deposited an amount of Rs.2,83,426/- on 29.04.2016, Rs.2,83,426/- on 31.05.2016, Rs.4,50,000/- on 06.10.2016, Rs.1,00,000/- on 26.12.2016 and Rs.1,20,000/- on 14.03.2017. In spite of the same, when a tender notice was issued on 17.03.2017 without mentioning any minimum reserve price calling for tenders for the year 01.04.2017 to 31.03.2018, the present Writ Petition is filed.

This Court, by order dated 22.03.2017, directed the tender process to go on, but shall not finalize the same, and the said order is continuing till today.

The respondents filed counter admitting that the petitioner is a successful tenderer for the year 2015-16. Since he was the highest bidder

for an amount of Rs.17,00,555/-, he entered into an agreement on 31.03.2015. The period of the tender was from 31.03.2015 to 31.03.2016 and, thus, the petitioner has no business to run the contract beyond 31.03.2016. The respondents also denied to have made any promise for allowing the petitioner to run the cycle stand beyond 31.03.2016. However, in view of the interim orders passed by the Civil Court, the tenders for the year 2016-17 were not called for and the petitioner was maintaining the cycle stand. He paid the above amounts periodically. It is also stated that pursuant to the tender notice, six bidders participated and one Polepaka Srinivas quoted the highest bid amount of Rs.23,05,555/-, but in view of the interim orders of this Court the tender is not yet finalized.

Learned counsel for the petitioner submitted that the impugned tender notice published in the Newspapers did not indicate any reserve price and it merely stated that the tender schedule would be issued to the persons who deposit the security deposit in favour of the respondents only and hence the prospective tenderers would not be in a position to know their capacity to quote the amount and insistence of security deposit before issuance of tender schedule is bad in law. He further submitted that in respect of another contractor some amount was waived and such consideration was not given to the petitioner. He relied on a decision reported in *Michigan Rubber (India) Limited v. State of Karnataka*¹, more particularly in para 23(d) stating that the preconditions or qualifications for tenders have to be laid down to ensure that the contractor has the capacity and the resources to successfully execute the work.

¹ (2012) 8 SCC 216

As stated above, the petitioner is an existing contractor who was running the cycle stand during the year 2015-16. He successfully stalled the calling of tenders for the year 2016-17 by filing a civil suit in O.S.No.13 of 2016 before the Principal Junior Civil Judge, Warangal. In view of high cost for publication of tender notice in the newspapers, the tender notice was published in the newspaper merely indicating that the tenders were invited for three items including the cycle stand and the dates of issuance of tender schedules and submission of tender schedules. It was also indicated that the tenders would be opened on 24.03.2017. With regard to other details the prospective bidders were directed to contact the second respondent. It was also stated that the interested bidders shall obtain the Demand Draft and with an identification shall apply for tender schedule and to those persons only it would be issued. Such condition is applicable to all the tenderers and, as stated above, six tenderers submitted their bids. The petitioner did not participate in the bidding process. The highest bid amount now quoted is Rs.23,05,555/-. The attempt of the petitioner to stall the tender proceedings during 2016-17 was successful and the present Writ Petition is filed only to continue himself. This Court does not see any valid ground to entertain the present Writ Petition.

The Writ Petition is, accordingly, dismissed with costs of Rs.5,000/- (Rupees Five Thousand only) payable to the first respondent.

As a sequel thereto, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 10.08.2017
Nsr