

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.34307 OF 2017

ORDER

The petitioner-M/s Sri Nava Durga Transport is a company, represented by its Managing Partner. The respondent-Singareni Collieries Company Limited, invited tenders by e-Tender notice No.E141700056, dated 9.5.2017 from the eligible transport contractors for transportation of Coal from Dorli OC.I, Bellampalli Area to SCCL hired Railway Siding, Rechini, on weight basis, for a period of two years. The petitioner submitted its tender containing technical bid as well as financial bid/commercial bid through online on 31.5.2017. The bids submitted by the petitioner and others were opened on 22.06.2017.

It appears that since finalization of the tender will take some more time, a short tender notice was issued for a period of three months and the accepted quote rate was Rs3.53 per ton/per km diesel 63.36/1tr. After the price bids were opened, it was noticed that the rate quoted by the petitioner at Rs.4.03 per ton/per km & diesel rate at 63.36/1tr, was found to be highest. Accordingly, the petitioner was called for negotiations on 20.07.2017 and after negotiations, the offer rate was found to be on higher side, two more negotiations were held and at the end of negotiations, the rate quoted by the

petitioner was at Rs.4.03. Since the said rate quoted by the petitioner was also on higher side, a proposal was put up for approval of the Chairman and Managing Director in the Tender Committee Meeting held on 23.09.2017. It appears that a decision was taken to drop the tender process and the same was approved by the Chairman and Managing Director on 7.10.2017. Accordingly, a fresh e-tender notice was issued on 7.10.2017 by fixing the date of opening as 17.10.2017.

It appears that the petitioner submitted a representation on 27.09.2017 seeking one more round of negotiation and the same was received by the 4th respondent on 29.09.2017. Since the representation does not contain any firm rate, it was not considered. In the meanwhile, when fresh e-tender was issued on 7.10.2017, the present writ petition was filed challenging further proceedings and seeking consideration of the representation dated 27.09.2017.

Learned Standing Counsel appearing for the respondent-Company submits that a letter was issued to the petitioner on 19.10.2017 and the EMD was also refunded.

Learned counsel appearing for the petitioner submits that the said letter is subsequent to the fresh e-tender dated 7.10.2017 and it should not be taken into cognizance. He further submits that now the petitioner is ready to quote the

rate of Rs.3.53, and it should be considered for awarding the work.

Learned Standing Counsel submits that in the absence of any fixed rate in the representation dated 27.09.2017 and in view of issuance of re-tender on 7.10.2017, six bids were received and it is not possible to consider the request of the petitioner.

Learned counsel appearing for the petitioner submits that since the last date for submission of the tenders was over, he should be given an opportunity to submit the tender pursuant to re-tender as he could not avail the opportunity in view of pendency of the writ petition.

Since pendency of writ petition is not a bar for the petitioner to submit tender pursuant to the e-tender notice, he should have taken appropriate steps for submitting the same. As the petitioner did not choose to file the tender, this Court is not inclined to extend the said relief to him in the present writ petition.

Accordingly, the Writ Petition is dismissed. No costs.

JUSTICE A.RAMALINGESWARA RAO