

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

Writ Petition Nos.1717 and 1737 of 2018

COMMON ORDER:

Heard the learned counsel for the self-same petitioner and also the learned Govt. Pleader for Transport and R & B Departments for respondents and perused the prayer in both the Writ Petitions which reads as follows:-

“To issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in issuing Corrigendum of NIT No.4/ PLAN/ CE(MDR)/ DCE@/ EE(TEC)/ DEE7)AEE2/ 2017-18,dated 28.12.2017 prescribing the condition of location of Batch type Hot Mix Plants within the State boundaries of either Andhra Pradesh or Telangana as illegal, arbitrary, capricious and contrary to G.O.Rt.No.180 T.R&B(R.I) Department dt.19.06.2017 apart from being violative of Article 14 and Article 19(1)(g) of Constitution of India and consequently set aside the same by directing the respondents to receive and consider the tender document of the petitioner Company made pursuant to NIT No.4/ PLAN/ CE (MDR)/ DCE@/ EE(TEC)/ DEE7)AEE2/ 2017-18,dt.28.12.2017 without insisting for location of Batch type Hot Mix Plant within the State boundaries of either Andhra Pradesh or Telangana and to pass such other orders as are deemed fit and proper in the circumstances of the case.”

The G.O.Rt.No.180 T.R&B(R.I) Dept. dt.19.06.2017 particularly from Clause-3 sub clause-2 speaks of “*The Hot Mix Plant shall be located within a distance of 100kms, from the worksite, in order to have control over the temperature of the bituminous Mixes. The Contractor shall procure the Hot Mix material to the work site duly maintaining and ensuing the required laying temperature, as per the specifications.....*”. The tender condition No.10 also reiterates the same. Whereas, subsequently corrigendum was issued on 28.12.2017 stated uploaded on 19.01.2018 at 12.47p.m. and said corrigendum speaks Hot Mix Plant prescribed must be located within the said boundaries either in Andhra Pradesh and Telangana State shall only be considered. It is therefrom contended in support of the prayer by the

learned counsel for the petitioner that they want to disqualify indirectly though the petitioner is otherwise eligible from the original G.O.Ms.No.180 supra of having his existing Hot Mix Plant within a distance of 100kms, to the worksite for which the tender is to be submitted to take up though it is in the State limits of Karnataka.

The submission of the learned Govt. Pleader is that in view of the uploading on 19.01.2018, they are not insisting the requirement of the existence of the Hot Mix Plant within the State limits of Andhra Pradesh or Telangana. However, the fact remains that because of this, the petitioner could not upload his tenders and the last date is expired today by 4.30p.m. The matter is made a mention yesterday and it is posted to today in the motion list to take up. Now it is 4.35p.m. At this stage, when reached since time is lapsed to subserve the ends of justice, this Court directs the respondents to accept the petitioner to upload the tender and submit by tomorrow at 4.30 p.m.

Accordingly and in the result, the Writ Petitions are disposed of to consider subject to other eligibility criteria.

Consequently, miscellaneous petitions, if any, pending in these Writ Petitions, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date:24.01.2018.

Note:-
Issue copy today.
b/ o.vvr.