

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.Nos.3231 and 3340 of 2018

COMMON ORDER :

Since common issue arises in both the Writ Petitions, they are being disposed of by common order.

2. Heard the counsel for petitioners in both the Writ Petitions and the Sri J. Sreenivasa Rao, learned Standing Counsel for Singareni Collieries Company Limited, for respondents in both the Writ Petitions.

3. The petitioner in WP.No.3231 of 2018 challenged the letter dt.16.01.2018 issued by the 2nd respondent canceling contract dt.17.07.2017 under which petitioner was allowed to deploy a '3T Platform Truck' bearing No.TS 28 T 2989 at PK OC for a period of five years.

4. The petitioner in WP.No.3340 of 2018 challenged the order dt.11.01.2018 issued by the 1st respondent rejecting petitioner's explanation for further deployment of the '4WD Camper Jeeps' bearing No.TS 04 UB 1542, on the ground that it was not registered in petitioner's name.

WP.No.3231 of 2018 :

5. Admittedly, the order dt.17.07.2017 was issued by the 1st respondent to the petitioner in WP.No.3231 of 2018 to provide a '3T

Platform Truck' with 12 hours availability per day and 2000 kms. monthly slab for five years under unit head system at PK OC. This was pursuant to a tender notice dt.24.12.2016.

6. The tender conditions themselves contemplated that 'owner of vehicle' should deploy 3T capacity platform trucks along with driver. After the vehicle supplied by the petitioner was used by the 1st respondent up to 16.01.2018, it was discovered that the vehicle, i.e., '3T Platform Truck' bearing No.TS 28 T 2989, provided by the petitioner in WP.No.3231 of 2018 was not owned by her, but it was owned by another person.

7. On coming to know of this, the 1st respondent after giving a show-cause notice to petitioner and considering her explanation, refused to accept further deployment of the said vehicle on the ground that it was not registered in her name, and therefore, cancelled the contract invoking Condition No.42 of the agreement dt.17.07.2017.

8. The petitioner contends that on account of her old age she was forced to purchase a '3T Platform Truck' in the name of another person as no Bank or private Financier agreed to give her loan.

9. In the counter-affidavit filed by respondent nos.1 and 2, a mention is made of clause (42) of the Work Order which states that a contractor should not sell the contractual rights to any other person / Agency during the tenure of the contract and Power of Authority for execution of the contract also cannot be assigned during the contract

period, and breach on this account is liable to lead to termination of the order. It is stated that since the petitioner was found to have deployed '3T Platform Truck' which did not belong to her and was registered in another person's name, there is a violation of this condition in the tender notice and Work Order, and therefore, it was terminated.

10. Reference is also made to Clause 24 of the Work Order which provides for disputes to be settled in the Courts of Kothagudem (now District Bhadrachalam Kothagudem) in the State of Andhra Pradesh, and it is contended that only a Civil Court should adjudicate the dispute.

WP.No.3340 of 2018:

11. Likewise, in this case too there is an agreement entered into between the petitioner and the 1st respondent on 22.12.2017 for deployment of 'Camper Jeeps', which was subsequently cancelled on 16.12.2017 on the ground that the petitioner is not a registered owner thereof and there is a violation of Condition No.43 of the Work Order.

12. Here also, counter-affidavit is filed taking the same plea as in WP.No.3231 of 2018.

Consideration by the Court :

13. Admittedly, the contracts-in-question which were awarded to the respective petitioners in both the Writ Petitions are non-statutory contracts and enforcement of rights thereunder ought to be normally

done in the competent Civil Court by way of seeking specific performance thereof or seeking remedy of damages for breach of contract. There is no public law element involved in these post-contractual disputes between the respective petitioners and the respondents. Therefore, without expressing any opinion on the merits or demerits of the claims of the respective parties, the petitioners in the Writ Petitions are given liberty to approach competent Civil Court and seek appropriate relief therein.

14. Accordingly, the Writ Petitions are dismissed, granting liberty to the petitioners to approach the competent Civil Court, and seek appropriate relief. No order as to costs.

15. As a sequel, miscellaneous petitions pending if any in these Writ Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04.06.2018

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