THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

<u>Writ Appeal No.751 of 2018</u>

<u>JUDGMENT:</u> (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the interim order passed in W.P.No.12012 of 2018 dated 11.04.2018 as extended by the order dated 01.05.2018.

The 1st respondent herein filed W.P.No.12012 of 2018 seeking a mandamus to declare the action of the respondents therein, (i.e. the appellants herein), in prescribing a minimum bid amount of Rs.21.25 crores per month as the basis for submitting tenders in response to the bid notice dated 20.03.2018 relating to collection of user fee through an agency on the basis of competitive bidding on e-procurement basis for Hyderabad Outer Ring Road, as arbitrary, irrational and violative of Article 14 of the Constitution of India. A consequential direction was sought to the respondents therein to proceed with the said bid notice without prescription of the minimum amount criteria, and based on the actuals relating to previous monthly collection of user fee from the toll gates in the outer ring road. By way of interim relief, the 1st respondent-writ petitioner sought stay of all further proceedings pursuant to the bid notice dated 20.03.2018.

By order dated 11.04.2018, the Learned Single Judge directed that, pending further orders, the bid process of collection of user fee initiated by the Hyderabad Growth Corridor Limited (1st appellant herein), through the impugned notice dated 20.03.2018, may go on; and, however, the bid shall not be finalised for a period of three weeks. The said interim order was extended by order dated 01.05.2018 till 15.06.2018.

Sri Y.Rama Rao, learned Standing Counsel for the appellants, would submit that the tender notice was issued for collection of user fee at all the toll gates in the outer ring road which stretches over an extent of 158 kilo meters; the previous bidder, to whom the contract was entrusted, had submitted his highest bid for Rs.18 crores per month for collection of user fees; and as the appellants was satisfied that a far higher amount was being collected by the contractor as user fees, a sum of Rs.21.25 crores per month was fixed as the minimum bid amount; three bids were received of which the highest bid quoted was for Rs.26.5 crores; the 1st respondent-writ petitioner did not even participate in the bid; in the writ affidavit, the 1st respondent-writ petitioner has not expressed any intention of submitting a bid for a higher amount or even that he was willing to pay an amount higher than that offered by the highest bidder of Rs.26.5 crores; and the writ petition is evidently filed to thwart the bid process, and prevent the 1st appellant herein (1st respondent in the writ petition) from maximising its revenues.

The 1st appellant is a public limited company whose shares are held, entirely, by the Government of Telangana. It has been entrusted the task of inviting bids for collection of user charges at all the toll gates in the outer ring road of the twin cities of Hyderabad and Secunderabad. In the previous year, the highest bidder had quoted Rs.18 crores, as the amount payable per month to the 1st appellant, for a contract to be awarded in his favour to collect user charges at all the toll gates in the outer ring road. The earlier contract came to an end on 31.03.2018. It is only because the bid process was interdicted by the interim order of this Court, was the contract extended for a certain duration; and, thereafter, the contract was entrusted temporarily to another person who is said to be paying Rs.87 lakhs per day towards collection of the user charges, which is approximately Rs.26.5 crores per month.

The only ground on which the jurisdiction of this Court was invoked, by the 1st respondent-writ petitioner, is that no reasons are discernable in the bid notice for prescribing the minimum bid amount of Rs.21.25 crores for award of the contract. It is not the 1st respondent-writ petitioner's case that they are willing to pay an amount higher than the amount prescribed in the bid notice, or a higher amount than the highest bid amount received by the 1st appellant in the present tender i.e., for Rs.26.5 crores. The 1st respondent-writ petitioner's contention, on the other hand, is that fixation of the minimum bid amount, of Rs.21.25 crores per month, is on the higher side, since the earlier contractor was required only to pay Rs.18 crores per month for conferring on him the right to collect user charges from commuters using the outer ring road. Fixation of a higher minimum bid amount, than the previous year, would enable the 1st appellant to increase its revenues over that of the previous year, and cannot be said to be either arbitrary or illegal. Action taken by the State, or its instrumentalities, to maximise its revenues is, undoubtedly, in larger public interest. The highest bid amount received, in the current year tender process, is said to be Rs.26.5 crores per month which is Rs.8.5 crores more than the monthly amount paid, by the previous contractor to the appellants.

The Writ Petition, as filed, is wholly misconceived. Since it is only the interim orders passed in the writ petition which are under challenge before us, we consider it appropriate to set aside the interim orders passed in W.P.No.12012 of 2018; and permit the appellants to proceed and finalise the bid in accordance with the bid conditions.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

07th June, 2018
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