

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V. BHATT**

**WRIT APPEAL Nos.1252, 1253, 1254, 1255, 1256, 1257, 1258,
1259, 1260, 1261, 1262, 1263, 1264, 1266, 1267, 1268, 1269
and 1270 OF 2018**

AND

**WRIT PETITION Nos.27403, 27436, 27482, 27485, 27497,
27498, 27501, 27502, 27525, 27528, 27530, 27540, 27570,
27584, 27585, 27597, 27612 and 27631 of 2018**

Common Judgment : *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

Heard the learned Senior Counsel appearing on behalf of the appellants in the writ appeals and the learned counsel appearing for the official and un-official respondents in these appeals, which include the petitioners in the writ petitions, from which these Writ Appeals arise.

2. The writ appellants are the different persons who had submitted tenders in response to Invitation of Tenders for providing sanitary workers on outsourcing basis contracts in the Municipal Corporation of Kadapa. They were the lowest tenderers.

3. The writ petitions were filed on the plea that Section 124-A of the Greater Hyderabad Municipal Corporation Act, 1955 (hereinafter referred to as 'the Act') stands violated by the Commissioner of the Corporation inasmuch as the clearance for the contract has not been obtained from the Standing Committee of the Corporation. The learned Single Judge has, through the impugned interlocutory order, directed that the process pursuant to the tender notice may go on, but the same shall not be finalized.

4. Hearing the learned Senior Counsel for the appellants, learned Standing Counsel for the Kadapa Municipal Corporation and the learned counsel for the writ petitioners in the various matters, we see that though the impugned order issued on 13.08.2018 is to the effect that the final awarding of work should be held back, it does not state reasons for its making. We are of the view that due application of mind to the entire factual premise, which is required for exercise of discretionary jurisdiction in writ petitions, has also not been appropriately carried forward while balancing the local need to have sanitation workers and the eligibility of the contractors to be confirmed with the lower tenders which they have offered. There is no dispute that the appellants are the lowest tenderers.

5. The plea projected with reference to Section 124-A of the Act is that it was only the Standing Committee of the Corporation which ought to have considered any such finalization of tenders. That contention does not stand because, as per the said provision as amended in 2013, the matter had to go to the Standing Committee only if the value of the subject matter of the contract would be Rs.50 lakhs and above. For this reason, the very foundation of the writ petitions do not continue to hold good in law. The impugned interlocutory order results in manifest miscarriage of justice in the factual premise on which it has been granted. These writ appeals are, therefore, allowed to succeed.

In the result, the captioned writ appeals are allowed and the impugned interlocutory order issued in the writ petitions is vacated.

In the light of the aforesaid, as rightly pointed out by the learned counsel for the parties in response to our query, nothing survives in the writ petitions. The writ petitions from which these appeals arise, are also hence dismissed. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

Dt. 22.10.2018

ajr/gbs

S.V. BHATT, J

