

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.6814 OF 2019

DATED :18.04.2019

Between :

Mohammed Altaf Hussain,
S/o.Mohammed Liaqat Hussain,
Aged 44 yrs, R/o.2-71/1,
Jalalpur Village, Varni Mandal,
Nizamabad District.

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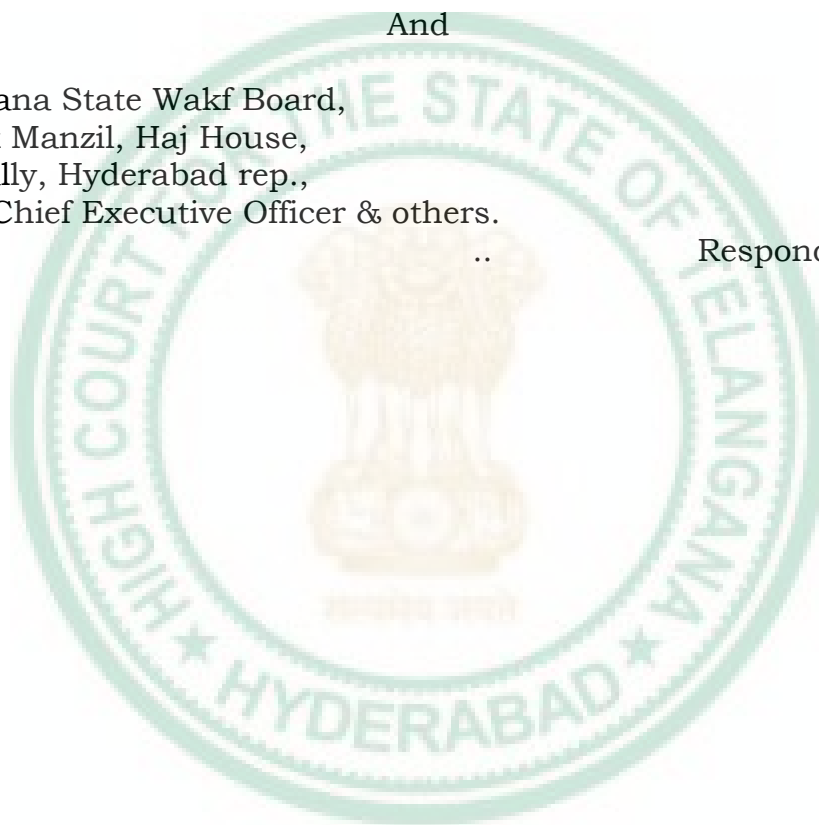
Petitioner

And

Telangana State Wakf Board,
Razzak Manzil, Haj House,
Nampally, Hyderabad rep.,
By its Chief Executive Officer & others.

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Respondents



This court made the following :

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ORDER :

Heard learned counsel for petitioner, learned Standing counsel for Wakf Board and Sri A.M.Qureshi, learned counsel appearing for 3rd respondent.

2. The 1st respondent-Board issued tender notification for awarding contract of right to collect on offering items of the 2nd respondent-Dargah for a period of one year. Petitioner as well as 3rd respondent participated in the said tender. 3rd respondent was identified as the highest bidder, as he has offered Rs.1,52,52,000/- (Rupees One crore fifty two lakhs fifty two thousand only). Accepting the said offer 3rd respondent was intimated to pay the entire amount offered by him. As per the tender conditions, the highest bidder is required to pay the entire amount within three days. While so, the 3rd respondent deposited only Rs.77,02,200/- (Rupees Seventy seven lakhs two thousand two hundred only) and requested for granting of some more time for depositing the balance amount. By the order dated 18.03.2019, the Board granted two months time for depositing the balance amount. Challenging the same, this writ petition is filed.

3. Petitioner herein is the second highest bidder. By placing reliance on Condition No.8 (a) of the terms and conditions of the auction, learned counsel for the petitioner submits that when the successful bidder fails to deposit the full tender amount

within three days the second highest bidder will be treated as eligible and he should be awarded contract.

4. In the instant case, the successful bidder did not deposit the entire amount within the time prescribed in the tender conditions, and his bid cannot be treated as valid and therefore, the next highest bidder has to be offered to award contract and not offering the award of contract being the second highest bidder and granting time is illegal.

5. Learned Standing Counsel for the Wakf Board fairly submits that the condition No.8 (a) of the terms and conditions of auction is mandatory and require compliance, but the 3rd respondent did not comply with the said condition.

6. At this stage, learned counsel for 3rd respondent submits that the 3rd respondent has deposited 50% of the amount offered within three days. In the event the Court holding that further time granted by the respondent-Board is not valid, the amount deposited by the 3rd respondent should be refunded.

7. Learned Standing counsel clarifies that the claim of 3rd respondent for refunding of the amount may be valid. Once awarding of contract to him is no more justified, the EMD cannot be returned to him.

8. On instructions, learned counsel for petitioner fairly submits that though the offer given by the petitioner was fallen short by approximately Rs.16,00,000/-, petitioner comes forward to match the offer given by the highest bidder.

9. Thus, the order extending time to 3rd respondent vide proceedings dated 18.03.2019 is set aside in terms of condition No. 8 (a) of the terms and conditions of auction. Petitioner shall pay the offer to award contract with the same terms and conditions as required and petitioner shall deposit the entire amount as agreed upon matching the offer given by the highest bidder. The amount deposited by the 3rd respondent shall be refunded to him after excluding the EMD amount. However, this order does not come in the way of Board taking decision to give fresh tender notification, for any other reason.

10. Accordingly, the Writ Petition is allowed. Pending miscellaneous petitions, if any, shall stand closed.

P. NAVEEN RAO, J

18th April, 2019
Rds