

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.14326, 14320, 14417 & 14418 OF 2019

Dated:12.07.2019

W.P.No.14326 of 2019:

Between:

M/s. Rajeswari Enterprises,
6-1-493, Shiv Nilayam, Khairatabad,
Hyderabad, rep., by its Proprietor,
N.Vijaya Rani, W/o. N. Mahesh Kumar,
Aged about 43 years, Occ: Business,
R/o.Hyderabad

.. Petitioners

And

The Hyderabad Metropolitan Development
Authority, Office of the OSD, Buddha Purnima
Project (BPP), Building, 6-1-2/1, Tank
Bund Road, Hyderabad, rep., by its Metropolitan
Commissioner and another

.. Respondents

This Court made the following:

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.14326, 14320, 14417 & 14418 OF 2019

COMMON ORDER:

In W.P.Nos.14320 and 14326 of 2019, petitioners were granted licence to run Machan Tree and Toy Train on 28.06.2016 valid for a period of three years. The licence granted expired on 30.06.2019. As a pre-load to the completion of licence period, tender notification was issued on 06.05.2019. The last date for submission of tenders was 20.05.2019. It appears, there was no response and no new contract was awarded. On 07.06.2019, the request of the petitioners for extension of licence period was rejected. On 09.07.2019, petitioners were asked to vacate the premises duly handing over the site on or before 13.07.2019. In the circumstances, these two Writ Petitions are filed.

2. In W.P.No.14417 of 2019, petitioner was granted licence on 30.06.2016 for a period of three years to run, operate and maintain Adventure House.

3. In W.P.No.14418 of 2019, petitioners were granted licence on 30.06.2019 to run, operate and maintenance of Revolving tower for a period of three years.

4. According to learned counsel for the petitioners, contract envisages renewal of licence for one more year and in terms thereof, request was made by the petitioners for renewal of licence and the same ought to have been granted instead of going for fresh tenders and such action of the respondents amounts to arbitrary exercise of power. He further submits that there was no response

pursuant to the tender notification issued and even if respondents go for fresh tenders, they ought to have permitted to continue the operations by the petitioners on the same terms on which the licence was granted to them. If the petitioners were asked to vacate the premises even before finalization of tenders, the respondents would also incur loss and therefore the offer given by the petitioners for renewal/continuation ought to have been accepted.

5. It is not in dispute that the contract period is only three years, whereas the discretion is vested in HMDA to renew the contract from time to time. Apparently, the contract is not renewed and fresh tender notification was issued on 06.05.2019. Since granting of renewal is not automatic but discretion vested in HMDA, petitioners cannot insist as a matter of right to grant renewal. Furthermore, on 07.06.2019, petitioners were directed to vacate the premises on or before 30.06.2019. Thus, the decision not to renew, flowing out of the contract, cannot be interjected in writ petitions.

6. At this stage, learned counsel for the petitioners submits that the petitioners would make an application to offer the same terms as specified in the tender notification and the same may be directed to be considered. He further submits that if the terms of tender floated on 06.05.2019 are not acceptable to petitioners, 15 days time be granted to the petitioners to vacate the premises.

7. In view of the same, it is open to the petitioners to make an application to renew the contract in accordance with the terms offered in the tender document dated 06.05.2019 and the same

shall be considered, if the terms indicated by the petitioners are acceptable. Further, if applications are made, pending consideration of the applications, the petitioners cannot be compelled to remove their machinery. However, petitioners are not entitled to operate the said machinery and possession shall be handed over within one week from the date of receipt of a copy of the decision by HMDA on the application for renewal, if their application is rejected.

8. Having regard to the fact that petitioners are operating the machinery for the last three years and in the peculiar facts of these cases, if the petitioners do not choose to file application for renewal, they are granted 15 days time to remove the machinery belonging to them and hand over possession of the premises to HMDA from the date of receipt of a copy of the order.

9. The Writ Petitions are accordingly disposed of. Pending miscellaneous application shall stand closed.

Date:12.07.2019

Note:- Issue C.C. in one week.

(B/o)
KH

P. NAVEEN RAO, J