

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.14424 OF 2019

Dated:12.07.2019

Between:

M/s. Sri Rajeswari Enterprises,
6-1-493, Shiv Nilayam, Khairatabad,
Hyderabad, rep., by its Proprietor,
N.Mahesh Kumar, S/o. Late N. Rajaiah,
Aged about 45 years, Occ: Business,
R/o. Hyderabad

.. Petitioner

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:

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WRIT PETITION No.14424 OF 2019

ORDER:

In this writ petition, petitioner was granted licence on 30.06.2016 for installation and operation of entertainment activities in revolving tower at Lumbini Park, Hyderabad, valid for a period of three years. 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 petitioner for extension of licence period was rejected and it was asked to vacate the premises on or before 30.06.2019. Hence, the Writ Petition.

2. According to learned counsel for the petitioner, contract envisages renewal of licence for one more year and in terms thereof, request was made by the petitioner for renewal of licence and the same ought to have been granted instead of going for fresh tender notification 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 petitioner on the same terms on which the licence was granted to it. If the petitioner was asked to vacate the premises even before finalization of tender, the respondents would also incur loss and therefore the offer given by the petitioner for renewal/continuation ought to have been accepted.

3. 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, petitioner cannot insist as a matter of right to grant renewal. Furthermore, on 07.06.2019, petitioner was 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 petition.

4. At this stage, learned counsel for the petitioner submits that the petitioner 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 petitioner, 15 days time be granted to it to vacate the premises.

5. In view of the same, it is open to the petitioner 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 petitioner are acceptable. Further, if application is made, pending consideration of the application, the petitioner cannot be compelled to remove its machinery. However, petitioner is 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 its application is rejected.

6. Having regard to the fact that petitioner is operating the machinery for the last three years and in the peculiar facts of this case, if the petitioner does not choose to file application for renewal, it is granted 15 days time to remove the machinery belonging to it and hand over possession of the premises to HMDA from the date of receipt of a copy of the order.

7. The Writ Petition is accordingly disposed of. Pending miscellaneous application shall stand closed.

Date:12.07.2019

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P. NAVEEN RAO, J

