

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.14801 OF 2019

ORDER :

Heard.

2. A tender notification dated 05.07.2019 was issued by the respondent-Municipality calling for tenders for undertaking the work of laying of C.C. road in various Wards running upto Rs.50 crores. Last date for submission of tender documents is 15.07.2019. After submission of tender documents through on-line web portal, the tenderer is also required to furnish original Demand Draft of processing fee from 15.07.2019 to 16.07.2019. This writ petition is filed challenging the condition imposed in clause-4 of the tender notification requiring filing of original Demand Draft for processing fee.

3. Learned counsel for the petitioner submits that on review of the earlier procedures, Government issued orders in G.O.Ms.No.174 Irrigation & CAD (PW-Reforms) Department dated 01.09.2008. According to him, as per paragraph 5 (i) thereof, submission of original hard copies of the uploaded scan copies of DD/Bank Guarantee towards Earnest Money Deposit by the participating bidders to the tender inviting authority before opening of the bid is dispensed with. Learned counsel, therefore, submits that requirement in paragraph 4 of the tender notification is *ex facie* illegal.

4. Two things are to be noted to appreciate the contention urged by the learned counsel for the petitioner. Firstly, last date for submission of tender documents was 15.07.2019 and

petitioner has not participated in the tender process. Secondly, a bare look at G.O.Ms.No.174, assuming that said G.O. is still in force, what it requires is not to submit hard copies of DD/Bank guarantee towards Earnest Money Deposit whereas clause 4 of the tender notification, which is attacked by the learned counsel for the petitioner, talks about processing fee. Thus, the prayer sought in the writ petition cannot be granted.

5. Learned counsel for the petitioner also sought to contend that the Council of the Municipality is not in existence and a Special Officer is appointed and therefore at this stage, there is no need for initiating the process of calling for tenders to award contract of the road work. However, the learned counsel for the petitioner fairly submits that there is no bar for the Special Officer to exercise the power vested in the Municipal Council. As can be seen from the tender notification, process is set in motion and procedure to call for tenders and to award contract appears to have been observed.

6. In paragraph 8 of the affidavit filed in support of the writ petition, petitioner sought to contend that some interested persons threatened the tenderers not to participate in the tender process. But, it is not the case of the petitioner that the petitioner was threatened not to participate in the tender process. Further, a vague allegation of threatening is made and the same is not sustainable.

7. Having regard to the above, I see no merit in the Writ Petition.

8. Accordingly, the Writ Petition is dismissed.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

P.NAVEEN RAO, J

18th July, 2019

Note : Issue C.C. by 22.07.2019.

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