

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.33872 OF 2018

Date:24.01.2019

Between:

K. Venkataramana, S/o. Yadagiri,
Age 39 years, Occ: Transport Contractor,
R/o. House No.4-1-42, Sher Bungalow,
Nalgonda, Nalgonda District .. Petitioner

And

The State of Telangana, rep. by its
Principal Secretary, Civil Supplies
Department, Secretariat, Hyderabad
and others .. Respondents

The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.33872 OF 2018****ORDER:**

Heard learned counsel for the petitioner, learned Government Pleader for Civil Supplies for respondent No.1, Sri A. Jagan, learned Standing Counsel for respondent No.2 and Sri V. Raghu, learned counsel respondent No.3. With the consent of learned counsel for the parties, the Writ Petition is finally heard and disposed of.

2. Petitioner was Stage – I Transport Contractor. The earlier contract granted to petitioner was expired on 30.09.2018. On 25.08.2018, fresh tenders were called to carry out transport contract from 01.07.2018 to 30.09.2019. The last date for submission of tenders was upto 10:30 A.M. on 10.09.2018. Petitioner submitted his bid on 09.09.2018. He quoted an excess amount of 6.83% as compared to the earlier offer. He claimed that he has submitted a revised price bid on 10.09.2018 and uploaded at 10:05 A.M. by quoting the amount with 4.23% less than the then existing rate. In other words, in the first quotation submitted by the petitioner, he offered at Rs.312.79 ps. and now reduced to Rs.292.79 ps. Respondent No.3 was declared as L1 and he was offered the transport contract.

3. Petitioner claimed to have submitted representation on 12.09.2018. Alleging inaction on the representation and proceeding to award contract, this Writ Petition is filed. Petitioner challenges the decision to award contract to respondent No.3 contending that respondent No.2 erred in not considering the uploaded bid

submitted by the petitioner though the same was acknowledged and the same amounts to arbitrary exercise of power and authority.

4. On 19.09.2018, this Court granted interim stay. Praying to vacate the said interim order, respondent No.2 – Corporation as well as respondent No.3 filed vacate petitions.

5. According to learned counsel for the petitioner, material placed on record would clearly disclose that the petitioner's revised bid was valid and when the revised bid was acknowledged by the respondents and found valid, the revised offer given by the petitioner could not have been ignored. His revised offer is far less as compared to the offer given by respondent No.3 and respondent No.2 – Corporation could have been saved public money if the revised bid offered by the petitioner was accepted and the contract is awarded to him.

6. The short issue for consideration is, whether the revised bid of the petitioner including submission of financial template was properly uploaded and whether respondent No.2 – Corporation illegally ignored the revised bid?

7. Based on the material placed on record, learned counsel for the petitioner sought to contend that the revised bid including petitioner's offer was uploaded and acknowledged by the respondents and therefore they could not have ignored the revised offer given by him.

8. According to learned Standing Counsel for respondent No.2 – Corporation, the financial template along with revised bid of the petitioner was not uploaded and therefore the revised bid of the petitioner was not accepted.

9. Learned Standing Counsel also produced the record to show that the matter was enquired into based on the representation submitted by the petitioner to ascertain whether the financial template was uploaded by the petitioner and it was found that the financial template was not uploaded and therefore the contention of the petitioner is not valid.

10. Record would disclose that the Vice Chairman and the Managing Director of respondent No.2 – Corporation sought information from IT E & C Department, whether the rates offered by petitioner were not reflected in e-procurement financial bid. The Principal Secretary to Government, IT E & C Department vide his letter dated 05.10.2018 informed the Vice Chairman and Managing Director that the matter was verified and found that the petitioner has not uploaded the commercial templates on 10.09.2018 and because of that reason, in evaluation process, the system showed the documents uploaded on 09.09.2018 only. The correspondence from M/s. Upadhi Techno Services Limited, who was the agent dealing with the online processing of tenders would disclose that they have verified online web portal and asserted that petitioner though modified the tender document has not uploaded the commercial template. In view of the categorical assertion of the agency, which was handling the web portal and further information furnished by the Principal Secretary to Government,

when the Court specifically asked learned counsel for the petitioner to show any material to substantiate his claim that the commercial template was also uploaded along with the revised bid, learned counsel for the petitioner expressed his inability except to show the data obtained by him from the online web portal regarding uploading of documents and acknowledgement of documents uploaded by him.

11. When it is the categorical assertion of the agency, which has access to the web portal, and the Principal Secretary to the Government that the petitioner has not uploaded revised financial bid though he has submitted revised bid on 10.09.2018, merely because an acknowledgement is furnished to the petitioner regarding submission of a modified bid on 10.09.2018, it cannot be assumed that petitioner also uploaded financial template and respondents deliberately ignored the revised bid offered by the petitioner and the contract is awarded to respondent No.3 even though the offer given by him is better than the offer given by respondent No.3.

12. Therefore, I do not see any merit in the Writ Petition and the Writ Petition is accordingly dismissed. There shall be no order as to costs. Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date:24.01.2019

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