

HON'BLE SRI JUSTICE T. VINOD KUMAR

**Writ Petition Nos.7417, 7418, 7422, 7632, 7642
and 7651 of 2020**

COMMON ORDER:

The issue involved in these writ petitions is one and the same and hence, they are disposed of by this common order.

2. These writ petitions are filed questioning the action of the District Welfare Officer, Women Child Disabled and Senior Citizen Department of Yadadri Bhuvanagiri District and Nalgonda District, in not considering the petitioner's e-tenders on the ground that the petitioners are non-local poultry farmers, as the petitioners have applied for ICDS Projects in division outside the project area, as arbitrary, illegal, unconstitutional and contrary to a judgment of the Hon'ble Division Bench of this Court in Writ Appeal No.652 of 2018, dated 30.04.2018.

3. The batch of above writ petitions are taken up for hearing today i.e., 08.06.2020 through Video Conferencing.

4. Heard the learned counsel for the petitioners and Sri Sanjeev Kumar, learned Special Government Pleader appearing for the Government Pleader for Women Development & Child Welfare and Sri. J.P. Srikanth, learned Counsel appearing for implead petitioner in W.P. No. 7418 of 2020.

5. Learned Special Government Pleader would bring to the notice of this court, that the tenders issued by the District Welfare Officer, Women Child Disabled and Senior Citizen Department of Nalgonda District, have not been finalized and the tenure of contract period of the existing supplier's have been extended for a period of one month. However, he would submit that the authorities while finalizing the tenders, would follow the order of this court in W.A. No. 652 of 2018 and thus, the W.P.

No.7632, 7642 and 7651 of 2020 can be disposed of along with W.P. No. 7417 of 2020.

6. The learned Special Government Pleader fairly submits that a division bench of this Court in Writ Appeal No.652 of 2018 was pleased to direct the authorities to consider the poultry farmers who are located outside the project area, but are in close proximity to the area of supply as being eligible to submit their bids. However, learned Special Government Pleader submits that this court left it to the authorities to consider as to whether a particular bidder is in close proximity to the project area or not.

7. Admittedly, in these batch of writ petitions, the bids submitted by the petitioners in pursuance of the e-tender issued, have been rejected solely on the ground that the petitioners are located outside the project area. The rejection of the bids of the petitioners by the respondent authorities on the said ground / reason, is contrary to the law laid down by this Court in Writ Appeal No.652 of 2018, wherein the Division Bench of the Common High Court was pleased to observe as under:

“While the ‘E’ tender notification stipulates that the poultry farms should be located within the project area, it does appear to restrict the field of choice of poultry farmers more than what is stipulated in the policy. The policy, notified by the Government of Telangana in its Memo dated 9.12.2104, is that the poultry farmer should be located close to one of the projects. The word “close” would mean that the poultry farms should be located near or in close proximity to the project, even if it is not adjacent to the project itself. Location of poultry farms at a long distance, of several kilometers from the project, cannot be held to be in close proximity of the project.

Suffice it therefore, to modify the order of the learned Single Judge and, instead, direct the respondent-authorities to permit bidders, located in close proximity to the project, to submit their bids, and not restrict it merely to those located in the project area. While the question, whether the poultry farms of the

appellants and the respondent-writ petitioners is in close proximity to the project area, is for the authorities to consider, the onus is on the bidders to show that the poultry farm is located within close proximity to one of the two projects, to which they have submitted their bid; and, in case the authorities are satisfied that the poultry farms are not located within close proximity of the project, it is open to them to assign reasons and reject such bids.”

8. In view of the above settled position of law, the action of the respondent authorities in excluding the bids of the petitioners in the tender process, solely on the ground that they are located outside the project area cannot be held to be valid and accordingly, the impugned orders are hereby set aside.

9. However, it is made clear that the respondent authorities while considering as to whether the bidder / tenderer poultry farm is located within “close proximity” to project area for effecting supplies, as per the dicta laid down by this Court in Writ Appeal No.652 of 2018, shall take into consideration the longest distance for supply within the project area and consider the bids of all such applicants, whose location for supply falls within the longest distance, though such bidders are located outside the local project area, for awarding the tenders.

10. Since, the tenders as finalized by the respondent authorities excluding the petitioners, who claim to be in “close proximity” to project, being set aside, the respondent authorities shall undertake the exercise of finalizing the bids afresh, by taking into consideration the bids of those suppliers, which have been rejected earlier on the ground of being located outside project area, within a period of three weeks from the date of receipt of a copy of this order.

11. It is also made clear that, since, the tenders floated relate to the supply of farm fresh eggs to Anganwadis, for being provided to the beneficiaries of Integrated Child Development Scheme (ICDS), which

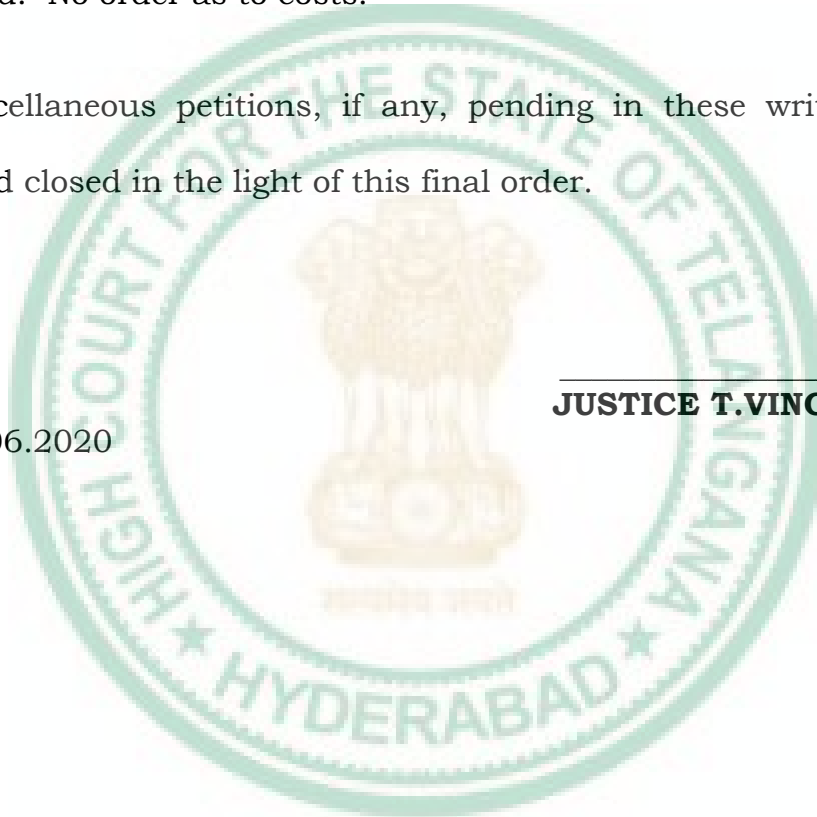
interalia covers pregnant women and children up to the age of one year, with a benevolent object to reduce anemia and malnutrition, and prevent infant and maternal mortality, should not be effected, the respondent authorities are permitted in the interim to source the supply of fresh eggs from the suppliers in whose favour the tenders have been finalized earlier (before being set-aside by this order) being located in the project area, till the tenders are finalized afresh, in terms of the orders of this Court in the present batch of writ petitions.

12. Subject to the above observation and direction, these writ petitions are allowed. No order as to costs.

13. Miscellaneous petitions, if any, pending in these writ petitions, shall stand closed in the light of this final order.

Date: 08.06.2020
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JUSTICE T.VINOD KUMAR



HIGH COURT FOR THE STATE OF TELANGANA

MAIN CASE No.: Writ Petition Nos.7417, 7418, 7422, 7632, 7642 and 7651 of 2020

PROCEEDING SHEET

Sl. No	DATE	ORDER	OFFICE NOTE
	08.06.2020	<u>TVK,J:</u> These writ petitions are disposed of. (vide separate common order). (B/o.) Isn <u>IA No.2 of 2020</u> <u>in WP No.7418 of 2020</u> The present application is filed by the petitioner to implead as 5th respondent in Writ Petition No.7418 of 2020 as well as in IA. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the Govt. Pleader for Women Development & Child Welfare and learned counsel for the writ petitioner. Perused the record. For the reasons stated in the accompanying affidavit, the application is allowed and the petitioner is impleaded as 5th respondent in WP as well as in IA. Interim Application ordered accordingly. <u>TVK,J</u> Isn	

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