APHC010354742024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3329]**
(Special Original Jurisdiction)

FRIDAY ,THE FOURTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 18004/2024

Between:

P Bharath and Others **...PETITIONER(S)**

AND

Irctc Ltd and Others **...RESPONDENT(S)**

Counsel for the Petitioner(S):

1. HARI BABU MAGULURI

Counsel for the Respondent(S):

1. K ARUNA

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO:18004 of 2024

The Court made the following

ORDER:

Brief facts of the case are as under:

1. The 2nd Respondent herein issued a tender notification vide OPEN E-TENDER No-2024/IRCTC/SCZ/1/NIT/FP/01 as per Tender Document No.2024/SCZ/1/FP/NIT-18, dated 02.04.2024, for setting up, operation and management of Food Plaza at Dhone Railway Station, for a period of nine (9) years. As per the Notice Inviting Tender, the last date for online submission of the tenders was 24.04.2024, further one Corrigendum-01 was issued on 18.04.2024, modifying a clause of Annexure-G and extended the time for submission of tender till 02.05.2024. Pursuant to which the Petitioners herein submitted their bids / applications along with all the annexures supporting as per the terms and conditions of the tender notification on 02.05.2024. As per the terms of the tender notification, the sequence of finalization of tender process would be technical bid, financial bid and e-auction.

2. While so, on 12.08.2024 to the surprise of the Petitioners, the 2nd respondent informed the Petitioners that their bids have been disqualified due to the following reasons:

<u>Reasons for disqualification of the Petitioner No.1</u>

Turnover for Five Financial years submitted as per Annexure B-2 are not completely matching with the details in the UDIN document uploaded in the ICAI report.

<u>Reasons for disqualification of the Petitioner No.2</u>

Turnover for Five Financial Years certified as per Annexure B-2 are not completely matching with the details in the UDIN document uploaded in the ICAI portal.

The said disqualification was assailed in the present writ petition.

3. The 2nd respondent filed counter-affidavit and stated as under:

Eligibility Mandatory Criteria for Food Plaza – Sl.No.(11) specifies

(i) The Average Annual Sales Turnover of the bidder in any three (03) years out of last Five (05) Financial years i.e., 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23 from Catering / Hospitality business in India involving production / sale / service of food items should not be less than Rs.50 lakhs.

(ii) Turnover of the bidder should not be NIL (ZERO) in any of the Five (05) Financial Years for which the turnover is submitted.

(iii) To substantiate the financial turnover, the bidder shall submit Certificate of sales turnover clearly indicating the sales from catering business as per "Annexure-B2" for last completed five financial years, duly certified by the Chartered Accountant. Also, the petitioner shall enclose Balance Sheet and Profit & Loss Account for the last Five completed financial years duly audited by the Chartered Accountant.

Annexure B2 of the Tender Document specifies:

(i) The details submitted by the bidder in Annexure B-2 must be correct and with valid UDIN, Annexure B-2 without UDIN shall not be considered.

(ii) For establishing the eligibility of petitioner as per S.No.11 of eligibility criteria, average annual turnover sale turnover in any three years out of last five financial years i.e., 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23 will be taken.

(iii) Turnover of last 05 Financial Years i.e., 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23 will be considered for S.No.10 of Eligibility Criteria for establishing minimum Five years' experience in production / sale / service of food items in India.

(iv) Turnover of the bidder should not be NIL (Zero) in any of the five (5) financial years as above.

4. It is further stated that as per the Annexure-B2 as submitted by the 1st petitioner, his annual sales turnover of the last completed five financial years along with average annual turnover during the last five years is only 0.49 crores as certified by the Chartered Accountant (for short "CA") along with Unique Document Identification Number (UDIN). Further, CA has not recorded the sales turnover for five financial years but in the UDIN certificate uploaded in the website certified annual sales turnover of two financial years i.e., 2021-22 and 2022-23. As far as the 2nd petitioner is concerned, the Annexure-B2 submitted by the 2nd petitioner the sales turnover for the last completed five years along with the average annual turnover during the last five financial years is Rs.1.89 Crores has been certified by the CA. But the CA has not recorded the sales turnover for the five financial years in the UDIN certificate uploaded in the website. But only uploaded the average sales turnover of five years vide UDIN certificate. Therefore, both the petitioners herein are submitted incomplete documents as required as per the clause (11) of the tender document which is classified as mandatory criteria for eligibility of bidders.

5. Further, it is stated that the sales turnover certified by the CA in Annexure-B2 in respect of both the petitioners are not matching with the UDIN certificate uploaded in ICAI (The Institute of Chartered Accountants of India) portal. Hence, as per the tender document Annexure-B2 submitted by the Petitioners have been treated as incomplete and invalid. Proof of mandatory requirements specified for minimum average sales turnover of the Petitioners. Therefore, the bids of the Petitioners were disqualified at technical stage itself and in view of the reasons narrated above the Writ Petition is liable to be rejected.

6. Learned counsel for the petitioners submits that the reasons stated by the Respondent No.2 in disqualifying the petitioners at the stage of technical bid as extracted above, without giving any opportunity for rectification or without giving any notice and without seeking any clarification regarding disqualification issue to the petitioners is contrary to the terms of the tender. A bare perusal of the Clause 11(i) which indicates that the average annual turnover of the bidder in any three years out of last five financial years from catering / hospitality business should not be less than Rs.50 lakhs. As far as the 1st Petitioner is concerned, the average annual sales turnover of the three years out of last five financial years is Rs.71,44,244/-. As far as the 2nd petitioner is concerned, it is Rs.1.89 crores which are contrary to the statement drawn in counter affidavit and which is basis for rejection. As per the counter affidavit the turnovers mentioned for the years 2018-19 is Rs.116.83 lakhs, for 2019-20 - Rs.71.54 lakhs and for 2022-23 – Rs.25.96 lakhs. If three years average out of 5 financial years is Rs.71,44,244/- but the respondent erroneously calculated all the average turnover of the 5 years. But the condition speaks only three years out of 5 years. Therefore, the reason for disqualifying the technical bid is contrary to the facts and clause-11 of the terms tender document. The other reason stated by the respondents that the particulars mentioned at Annexure-B2 are not matching the UDIN certificate uploaded in ICAI portal submitted by the petitioners treated as incomplete and invalid proof of mandatory requirements is also contrary to the terms of the tender document. That the details submitted by the bidder in Annexure-B2 must be certified with valid UDIN. Accordingly, in compliance of the same the CA certified the Annexure-B2 of the petitioners along with valid UDIN number. More over, the said UDIN number indicated on Annexure-B2 is valid till today. Therefore, the contention of the 2nd respondent that the particulars uploaded vide UDIN number by the CA is mismatching with the Annexure-B2 submitted by the petitioners is contrary to the facts on hand.

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7. He further submits that nowhere in the entire tender document it is mentioned that the turnover of each of all the 5 financial years i.e., 2018-19 to 2022-23 as mentioned in the Annexure B2 should be reflected in UDIN certificate uploaded in the ICAI website report. In the absence of such condition drawing something other than the terms of the tender document by the respondent is certainly arbitrary and malafide action on the part of the respondent. It is accepted by the respondent that the petitioners herein are submitted Annexure-B2 providing particulars of sales turnover of five completed financial years i.e., from 2018-19 to 2022-23 duly certified by the CA with valid UDIN number. If that is so, it is not the case of the respondent that UDIN number generated by the CA is not genuine one. There is no clause that the UDIN certificate should reflect all the turnover particulars of five financial years as per clause-11 of tender document. Therefore the second reason which is basis for disqualification is also contrary to the facts and contrary to the terms of the tender document.

8. Learned counsel for the Petitioners also provided particulars of similar tender notifications issued by the 2nd respondent as mentioned below:

Sl.No.	Tender notification, date, unit/ station	Clause relating to UDIN
1	Open e-tender No – 2024/IRCTC/SCZ/1/NIT/FP/01 as per E-Tender document No:2024/SCZ/1/FP/NIT-18 dt: 02.04.2024, Food Plaza at Dhone Railway Station	Clause No.11 of Annexure B: Turnover of the bidder should not be NIL (Zero) in any of the Five (05) Financial years please enclose: (i) Certificate of Sales turnover clearly indicating the sales from catering business as per "AnnexureB2" for last completed five financial years, duly certified by the Chartered Accountant. (ii) Also enclose Balance sheet and profit & Loss account of the last five completed financial years duly audited by the Chartered Accountant. NOTE: Turnover of last Five (05) Financial Years i.e., 2018-19, 2019-20, 2020-2021, 2021-22, and 2022-23 will be considered to establish that firm is having minimum five years' experience in the field of catering / hospitality in India.
2.	Issued Corrigendum-01, dated 16.07.2024 to the eligibility criteria serial No.11, in the tender notification No.2024/IRCTC/SCZ/1/NIT/FP/02 as per Tender Document No.2024/SCZ/1/FP/NIT-19, dt: 25.06.2024, Food Plaza at Cherlapalli Railway Station	"Bidders maybe please note that turnover for each of all the financial years i.e., 2018-19, 2019-20, 2020-2021, 2021-22, and 2022-23 as mentioned in the Annexure B2 should be reflected in UDIN Certificate downloaded from ICAI website.
3.	OPEN E-Tender No-2024/IRTC/LCS/1/SCZ/Refreshment Room-4, dt: 25.06.2024, RR, at Vijayawada Railway Station	**Bidders are required to submit Form-5 of Section-IV issued by Statutory Auditor / Chartered Accountant, clearly specifying the turnover of the Bidder. The Form-5 must bear UDIN.** **Bidders may please note that Turnover for each of all the financial years i.e.,** 2018-19, 2019-20, 2020-2021, 2021-22, and 2022-23 as mentioned in Form-5 should be reflected in UDIN certificate downloaded from ICAI website
4.	OPEN E-Tender No-2024/IRTC/LCS/1/SCZ/JAN AAHAAR-3, dated 25.06.2024, Jan Aahaaar tenders over SCZ.	Bidders are required to submit Form-5 of Section-IV issued by Statutory auditor / Chartered Accountant, clearly specifying the turnover of the Bidder. The Form-5 must bear UDIN. Bidders may please note that Turnover for each of all the financial years i.e., 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23 as mentioned in Form-5 should be reflected in UDIN certificate downloaded from ICAI website.

9. On perusal of the above tender notification, initially the Respondent did not insist for the annual turnover of last five financial years should be reflected even UDIN certificate of CA but later by way of corrigendum in the 2nd notification at Serial Nos.3 and 4 the said clause is reflected. But in the case in hand, in the present tender notification there is no such clause. In the absence of the same the Respondent cannot insist for the same contrary to the terms of the tender document.

10. In view of the facts as stated above, respondents herein without giving proper instructions before submission of tender bids after filing tender application and trying for taking advantage of not filing the information in UDIN certificate disqualified the petitioners is nothing but an action of arbitrary and colorable exercise of power on the part of the respondents to benefit a particular person for the reasons known to them.

11. He further submits that in counter affidavit, respondent No.2 drawn another reason for disqualification i.e., UDIN number is absent even in the balance sheet and profit and loss account statements submitted by the Petitioners so that cross-verification of the financials is not possible by the tender committee. The said reason is not assigned at the time of disqualification of the petitioners' bid but they stated in the counter-affidavit which is nothing but an invention at later stage to substantiate their illegal and arbitrary action of disqualification contrary to the facts.

12. As per the tender document of petitioners at Page-114 to 132 of the 1st petitioner and 198 to 276 of the 2nd petitioner clearly indicates the balance sheet as well as profit and loss accounts for the financial years 2018-19, 2019-20 provided valid UDIN number as mentioned therein. But the fact remains that any of the conditions of the tender document do not contemplates the balance sheet and profit and loss accounts for the five financial years should possess valid UDIN number but the same was invented at later stage in this counter affidavit for all the reasons best known to them.

13. He further submits that the action of the 2nd respondent in disqualifying the petitioners at technical stage itself on the above grounds as stated above and without providing any opportunity to rectify as per terms of the tender or without issuing any notice is nothing but an action of arbitrary and a highhanded and a malafide action. As such, the said arbitrary and malafide action of the respondent is warrants interference of this Hon'ble Court.

14. Per contra, learned Standing Counsel for Respondent No.2 submits that the 2nd respondent herein verified the documents submitted by the petitioners and found that the Annexure-B2 and its particulars submitted by the petitioners are not reflected in UDIN certificate issued by the CA. The annual turnover of the five financial years submitted by the 1st petitioner is Rs.0.49 lakhs but as per the condition it must be Rs.50 lakhs. Therefore, the 1st petitioner is not entitled to bid on that ground also. She further submits that the balance sheet and profit and loss accounts for all the five financial years i.e., 2018-19 to 2022-23 are not having valid UDIN certificate which is also mandatory eligibility for technical bid. The contention of learned counsel for the petitioners that the particulars of sales turnover of five financial years is duly certified by the CA vide valid UDIN number is not sufficient. The UDIN certificate mismatching the particulars submitted by the petitioners in the Annexure-B2 which is a mandatory eligibility criteria for technical bid. Therefore, the 2nd respondent rightly disqualified the petitioners herein at the stage of technical bid. Considering the interim directions of this Hon'ble Court, the technical bid of the petitioners was considered along with other bidders but not finalized so far, in compliance of the orders of this Court. She further submits that it is settled preposition of law that the interpretation of clauses of the tender document is for the respondent, who authored the tender document since the conditions are involved so many technical aspects and expertize. She also asserts that it is settled law that extraordinary jurisdiction of constitutional courts cannot be exercised in tender matters more particularly at the stage of technical evaluation by the tendering authority. Therefore, the action of the respondents is purely on the basis of terms of the tender document and the respondents neither acted arbitrarily nor malafidely. Therefore, the action in disqualifying the petitioners do not warrants any interference by this Hon'ble Court under Article 226 of the Constitution of India. Thus she prays to dismiss the Writ Petition.

15. Heard Sri Hari Babu Maguluri, learned Counsel for the petitioners and Ms. K. Aruna, learned Standing Counsel for Respondent No.2 and perused the material placed on record.

16. Having regard to the submissions made by learned Counsel for the Petitioners and learned Standing Counsel for Respondent No.2 and on perusal of the material on record, this Court is inclined to formulate the issues as under:

1. Whether the action of the respondents in disqualifying the petitioners at the stage of technical bid is in terms of the tender document or not?

2. Is there any arbitrariness or malafide action in disqualifying the petitioners at the stage of technical bid.

3. Weather the extraordinary jurisdiction under Article 226 of the Constitution of India is available in tender matters at the stage of Technical bid, if so, it can be invoked in the case in hand or not ?

17. **POINT No.1**: The entire crux of the issue in the present Writ Petition is that the action of the respondent in disqualifying the petitioners at the stage of Technical bid is in accordance with the terms of the tender document or not. On perusal of the facts of the case as well as submissions of both the learned counsel, the bids of the petitioners are in accordance with the clause-11 of the tender document. As per the terms of the tender document, Annexure "B" clause-11 is one of the mandatory eligibility criteria to be observed by the bidders in strict sense. As such, clause-11 of the tender document is extracted hereunder:

> "11. Average Annual Sales Turnover in any three (03) years out of last Five (5) Financial Years from Catering / Hospitality business in India involving production/sale/service of food items should not be less than the limit indicated below. Trader / Stockiest / Distributors are not eligible.
>
> | Category of Stations | Average Annual Sales Turnover in any three years out of last Five Financial Years |
> |---|---|
> | B | 50 Lakh |
> | C | 25 Lakh |
> | D, E & F | 15 Lakh |
>
> Turnover of the bidder should not be NIL (Zero) in any of the Five (05) Financial Years
>
> Please enclose:-
>
> (i) Certificate of sales turnover clearly indicating the sales from Catering business as per "Annexure-B2" for last completed five financial years, duly certified by the Chartered Accountant.
> (ii) Also enclose Balance Sheet and profit & loss account of the last five completed financial years duly audited by the Chartered Accountant.
>
> **NOTE:-** Turnover of last Five (05) Financial years i.e., 2018-19, 2019-20, 2020-21, 2021-2022 & 2022-23 will be considered to establish that firm is having minimum five years' experience in the field of catering/hospitality in India."

18. On perusal of the clause-11 the tender in strict sense which was heavily relied upon by the 2nd respondent in disqualifying the Tenders of the petitioners which is indicating that in respect of “B” category stations the average annual sales turnover in any three years out of last 5 financial years should not be less than 50 lakhs. Admittedly, the subject tender was issued in respect of Dhone railway station which is classified as “B” category. On perusal of counter affidavit of the respondents the admitted sales turnovers for the last 5 financial years submitted by the petitioners as under.

2018-19	- Rs.1,16,83,000/-
2019-20	- Rs. 71,54,000/-
2020-21	- Rs. 18,92,000/-
2021-22	- Rs. 12,57,000/-
2022-23	- Rs. 25,96,000/-

19. Therefore, the average annual sales turnover in any of the three years i.e., for the year 2018-19, 2019-20 and 2022 - 23 it is Rs:71,44,244/. As far as the 2nd petitioner is concerned, even as per the counter it is admitted that the annual average sales turnover for all the 5 years is Rs.1.89 Crores. Therefore, both the petitioners are qualified this limb of condition and complied the clause-11, but the respondent erroneously calculated the average annual turnover of 5 years instead of 3 years contrary to the terms of clause-11. Whereas, as per clause 11(i) of the tender document clearly indicates that the Annexure-B2 for the last completed five financial years duly certified by the CA. In the case on hand, it is an admitted fact that the Annexure-B2 submitted by the petitioners are duly certified by the CA with valid UDIN number. The purpose of introducing the concept of UDIN is to enable user authorities and stakeholders to ensure that the certification and /or attestation of the costing data / documents / certificates is being done by an eligible practicing cost accountant only for the purpose to curb the frauds and forgery of signatures by unscrupulous elements. Therefore, the UDIN number has been made mandatory as per council decision w.e.f 1st February, 2019. Further the UDIN is being widely accepted as a seal of authentication. To achieve the objects as mentioned above Annexure-B2 was duly certified by the CA with valid UDIN certificate. Clause-11(ii) also suggests that the bidders shall enclose balance sheet and profit and loss accounts for the last five completed financial years duly audited by the CA. On bare reading of Clause-11(ii) indicates that the balance sheets and profit and loss accounts for the last five years submitted by the petitioners did not warrant UDIN certification of the CA but to be audited by the CA is sufficient. It is not the case of the 2nd respondent that the balance sheets as well as profit and loss accounts submitted by the petitioners are not duly approved / audited by the CA. But contended in their counter affidavit that the balance sheets and profit and loss accounts for the last five completed financial years not duly certified by the CA vide UDIN certificates is contrary to the term of the clause-11(ii) of the tender document.

20. The other reason for disqualifying the petitioners is that the sales turnover certified by the CA in Annexure-B2 submitted by the petitioners were not matching with UDIN certificate uploaded in ICAI portal is also not contemplated under Clause-11 of the tender notification. As per the tender notification the sales for the last five completed years should be certified by the CA. It is not the case of the respondent that Annexure-B2 under which the certificate of sales turnover for the last five completed financial years furnished in Annexure-B2 by the petitioners were not duly certified by the CA, but UDIN certificates uploaded in the web portal do not reflects the five years sales turnover particulars and insisting is unknown to the clause-11 of the tender document. It is not the case of the 2^{nd} respondent that the UDIN certification in Annexure-B2 submitted by the petitioners is not a valid UDIN certificate. Therefore, the other reason for disqualifying the petitioners by the respondent No.2 is also contrary to the clause-11 of the tender document.

21. On the above analysis the disqualification of the petitioners at the stage of technical bid is contrary to the terms of the tender document and this Court rightly passed interim orders directing the respondents to consider the bids of the petitioners on par with other qualified bidders for the financial bid. Therefore, disqualifying the petitioners at the stage of technical bid is contrary to the terms of the tender document and an action of colorable exercise of power discretion. Accordingly, point No.1 is answered in favour of the petitioners.

22. **<u>POINT No.2</u>:** On perusal of the reasons assigned in disqualifying the petitioners extracted as under:

> **<u>Reasons for disqualification of the Petitioner No.1</u>**
>
> Turnover for Five Financial years submitted as per Annexure B-2 are not completely matching with the details in the UDIN document uploaded in the ICA report.
>
> **<u>Reasons for disqualification of the Petitioner No.2</u>**
>
> Turnover for Five Financial Years certified as per Annexure B-2 are not completely matching with the details in the UDIN document uploaded in the ICAI portal.

23. On perusal of the reasons in disqualifying the petitioners as extracted above, indicating that the subject UDIN certificate uploaded at ICAI portal is only to achieve object of certification of sales turnover for the last five completed financial years from 2018-19 to 2022-23 by the competent CA and to curb the fraud and forgery of signatures by unscrupulous elements. In the instant case the Annexure-B2 of the petitioners were duly certified by the CA vide UDIN certificates as mentioned therein. Therefore, the contention of the 2nd respondent that UDIN certificate uploaded at ICAI web portal does not reflects all the sales turnover particulars of the petitioners is an additional / unknown invention on the part of the 2nd respondent, contrary to the mandatory clause-11 of the tender notification. To prove the arbitrariness and malafide action on the part of the 2nd respondent the petitioners submitted other tender notifications issued by the respondent which were duly extracted above clearly demonstrates that initially the subject tender notification as well as other tender notification Nos.1 and 2 did not contain the clause that the particulars of Annexure-B2 shall be reflected in UDIN certificate uploaded by the CA at ICAI web portal but tender Nos.3 and 4 as mentioned above which were issued on 25.06.2024 are later to the present tender document clarifies the UDIN certificate uploaded at ICAI portal shall reflect all the particulars mentioned in Annexure-B2. Therefore, it is a clear case of arbitrariness and malafide action in disqualifying the petitioners at the stage of technical bid for the reasons best known to them.

24. On perusal of the entire tender notification nowhere it contemplates that UDIN certificate uploaded at ICAI web portal shall reflect all the particulars of Annexure-B2. Therefore, this point is answered in favour of the petitioners and against respondents.

25. **POINT No.3**: The contention of learned Standing Counsel for Respondents that since the subject matter relates to tenders notices issued by the public authority which requires expertise and technical knowledge, being the author of the document and being technical expertise the respondents are competent enough to interpret the terms of the tender and accordingly the petitioners herein were disqualified at the stage of technical BID for the reasons as stated above. As such, interdicting the tender process by way of judicial review by this Hon'ble Court cannot be appreciable. Hence, the Writ Petition is not maintainable under extraordinary jurisdiction of this Court. The said contention of the learned Standing Counsel is valid if the respondent acted on fair and reasonable manner and in accordance with the terms of the tender document. At best this Court can read the terms of the tender as it is, whether the respondent applied his mind while assigning the reasons in disqualifying the bidders in accordance with the terms of the tender document.

26. In view of forgoing discussion as stated supra, the reasons assigned in disqualifying the petitioners by the 2nd respondent are contrary to the terms of the tender document. The said action of the respondent is arbitrary and with malafide intention and also out of colorable exercise of power. Therefore, the case in hand is exception to the general rule as contended by the learned Standing Counsel.

27. It is settled proposition that once the tendering authority acted contrary to the object of terms of the tender or in arbitrary manner or with malafide intention for other reasons, this Court can exercise its extraordinary jurisdiction to meet the ends of justice. The said principle is duly upheld in **The Krishna District Cooperative Marketing Society Limited v. The State of Andhra Pradesh**[1] this Court held thus:

> "**29**. The jurisdiction of Court under Article 226 of Constitution of India is limited and such power can be exercised only certain circumstances which are enumerated in "West Bengal Central School Service Commission v. Abdul Halim (Civil Appeal No.5824 of 2019 dated 24.07.2019)" wherein the Apex Court reiterated the following principles of judicial review.
>
>> "It is well settled that the High Court in exercise of jurisdiction Under Article 226 of the Constitution of India does not sit in appeal over an administrative decision. The Court might only examine the decision making process to ascertain whether there was such infirmity in the decision making process, which vitiates the decision and calls for intervention Under Article 226 of the Constitution of India. In any case, the High Court exercises its extraordinary jurisdiction Under Article 226 of the Constitution of India to enforce a fundamental right or some other legal right or the performance of some legal duty. To pass orders in a writ petition, the High Court would necessarily have to address to itself the question of whether there has been breach of any fundamental or legal right of the Petitioner, or whether there has been lapse in performance by the Respondents of a legal duty. The High Court in exercise of its power to issue writs, directions or orders to any person or authority to correct quasi- judicial or even administrative decisions for enforcement of a fundamental or legal right is obliged to prevent abuse of power and neglect of duty by public authorities. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan v. Mallikarjuna reported in MANU/SC/0169/1959 : 1959:INSC:122 : AIR 1960 SC 137. If the provision of a statutory Rule is reasonably capable of two or more constructions and one construction has been adopted, the decision would not be open to interference by the writ Court. It is only an obvious misinterpretation of a relevant statutory provision, or ignorance or disregard thereof, or a decision founded on reasons which are clearly wrong in law, which can be corrected by the writ Court by issuance of writ of Certiorari. The sweep of power Under Article 226 may be wide enough to quash unreasonable orders. If a decision is so arbitrary and capricious that no reasonable person could have ever arrived at it, the same is liable to be struck down by a writ Court. If the decision cannot rationally be supported by the materials on record, the same may be regarded as perverse. However, the power of the Court to examine the reasonableness of an order of the authorities does not enable the Court to look into the

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> sufficiency of the grounds in support of a decision to examine the merits of the decision, sitting as if in appeal over the decision. The test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken, which has led to manifest injustice. The writ Court does not interfere, because a decision is not perfect."

28. For the forgoing reasons, the Writ Petition is maintainable and petitioners herein are entitled for the relief as prayed for. Hence the point No.3 is answered in favour of the petitioners.

29. For the reasons stated above, the Writ Petition is allowed by setting aside the order of disqualifying the petitioners vide e-mail dated 12.08.2024. Further, the respondents at liberty to proceed further and finalize the financial bids as per terms of the tender considering the financial bids of the petitioners along with other bidders at the earliest. No costs.

As a sequel, interlocutory application if any pending, shall stand closed.

VENKATESWARLU NIMMAGADDA,J

Dt:04.04.2025
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THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

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