

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 9<sup>TH</sup> DAY OF MAY 2013

BEFORE

HON'BLE MR. JUSTICE RAM MOHAN REDDY

WRIT PETITION NO.18989 OF 2013 [GM-PES]

BETWEEN:

M/S. BCITS PVT. LTD.,  
(FORMERLY KNOWN AS BELLARY COMPUTER  
IT SOLUTIONS PVT. LTD.)  
A COMPANY REGISTERED UNDER THE  
COMPANIES ACT, 1956 AND HAVING ITS  
REGISTERED OFFICE AT  
NO.86, 3<sup>RD</sup> CROSS  
BHOOPASANDRA MAIN ROAD  
RMV 2<sup>ND</sup> STAGE, BANGALORE-560 094  
REPRESENTED BY ITS MANAGING DIRECTOR  
MR. M.V. MURALI KRISHNA. ...PETITIONER

[BY: SRI UDAYA HOLLA, SR. ADV., FOR VIVEK HOLLA, ADV.,]

AND:

1. STATE OF KARNATAKA  
REPRESENTED BY ITS PRINCIPAL SECRETARY  
DEPARTMENT OF ENERGY  
ROOM NO 238, VIKASA SOUDHA  
DR. AMBEDKAR VEEDHI  
BANGALORE-560 001.
2. BANGALORE ELECTRICITY SUPPLY  
COMPANY LIMITED  
HAVING ITS CORPORATE OFFICE:  
BESCOM, K.R. CIRCLE  
BANGALORE-560 001.  
REPRESENTED BY ITS MANAGING DIRECTOR
3. THE GENERAL MANAGER(REVENUE)  
BANGALORE ELECTRICITY SUPPLY COMPANY LIMITED  
BESCOM, K.R. CIRCLE  
BANGALORE-560 001.

4. NSOFT SERVICES PVT. LTD.,  
 518, 30<sup>TH</sup> MAIN ROAD  
 BANASHANKARI III STAGE  
 BANGALORE-560 085  
 REPRESENTED BY ITS  
 MANAGING DIRECTOR.

... RESPONDENTS

[BY: SRI. R.B. SATHYANARAYA SINGH, HCGP FOR R1  
 SRI. D.N.NANJUNDA REDDY, SR. ADV., FOR  
 SRI. S. SRIRANGA, ADV., FOR R2 & R3  
 SRI. V.S. NAIK, ADV., FOR R4]

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 4.4.2013 PASSED IN APPEAL NO.EN 3 EEF 2013 PENDING ON THE FILE OF THE PRINCIPAL SECRETARY, DEPARTMENT OF ENERGY, THE 1<sup>ST</sup> RESPONDENT HEREIN, COPY IS NOT RECEIVED AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

### ORDER

Though this petition is listed for hearing on I.A.Nos.2/13 and 3/13 for vacating stay, with the consent of the learned counsel for the parties, petition is finally heard and disposed of by this order.

2. Sri. Udaya Holla, learned Senior counsel for the petitioner having addressed arguments on the merit of the case, nevertheless submits that the Appellate Authority none other than the Chairman of the Bangalore Electricity Supply Company Limited received the appeal and interlocutory application for stay on

15.1.2013 against the order dated 17.12.2012, issuing letter of intent to the fourth respondent, while rejecting the tender of the petitioner, but did not pass orders though required to dispose of the same within 30 days in accordance with Section 16 of the Karnataka Transparency in Public Procurements Act, 1999. In addition, Sri.Holla points to page 401 of the paper book, to submit that the earlier service provider M/s. Zygox Infotech Private Limited instituted A.A.No.25001/2013 before the City Civil and Sessions Judge under Section 9 of the Arbitration Act and obtained an interim order of stay upto 31.3.2013 though the application was thereafter rejected and interim order dissolved, coupled with the fact that the man power support in terms of the tender document(at page 49 of the paper book) to be provided by the successful bidder, is, one technical support to each sub-division; one project lead, one data centre manager and one Data Centre Manager(functional Executive). According to the learned Senior Counsel these requirements are not fulfilled as on the date. Hence the interim order dated 25.4.2013

directing stay of letter of intent and all further proceedings for a period of three months does not call for interference.

3. Sri. Holla, learned senior counsel submits that if the fourth respondent is not permitted to claim equities, in the event the appeal filed by the petitioner is allowed, this petition be disposed off with a direction to the Appellate Authority to hear the learned counsel for the parties and conclude the proceedings by the 27<sup>th</sup> of May 2013.

4. Sri. D.N. Nanjunda Reddy, learned Senior Counsel for respondent BESCO points to the terms of the tender document to contend that the service provider has to provide not only the man power support but several other supports as set out in clause 5.0 and 8.3 of the tender document and therefore the submission that it is only supply of a few personnel in compliance with the terms of the tender is incorrect. The learned Senior counsel submits that BESCO is

not averse to issue a direction to the Appellate Authority to hear and dispose of the appeal within a time frame.

5. Sri. V.S. Naik, learned counsel for the fourth respondent-service provider while not opposing the issue of direction to the Appellate authority submits that the Authority be directed to hear and dispose of the appeal and not the IA for stay.

6. Recording the submissions of the learned Senior counsel and the counsel for the fourth respondent, this petition is disposed directing the first respondent-Appellate Authority to extend to the parties an opportunity of hearing on **17<sup>th</sup> May 2013 at 11.00 a.m.**, conclude the proceeding and pass orders on or before of 27<sup>th</sup> May 2013. Interim order stands dissolved. The fourth respondent is not entitled to claim equities.

I.A.Nos.2/13 and 3/12 are rejected as unnecessary.

Sd/-  
JUDGE

\*mn/-