

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF JUNE 2006

BEFORE

THE HON'BLE MR. JUSTICE N.K.PATIL

WRIT PETITION No.7192 OF 2006 (GM-TEN)

BETWEEN:

M/S MARUTHI SALES CORPORATION
BY ITS PROP: SMT. GAYATRI N. RAO
D/O K.T. DESHPANDE
AGED ABOUT 28 YEARS
R/AT MAIN ROAD, HONNALI-57217
DISTRICT DAVANAGERE

... PETITIONER

(By Sri: V P KULKARNI, ADVOCATE)

AND:

- 1 THE JILLA PANCHAYATH TUMKUR
REPRESENTED BY ITS CHIEF EXECUTIVE
OFFICER
TUMKUR-572101
- 2 THE DISTRICT OFFICER
DEPARTMENT OF DISTRICT BACKWARD AND
MINORITIES, TUMKUR
TUMKUR DISTRICT-572101

... RESPONDENTS

(By Sri: B.N. PRASAD, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE TENDER NOTIFICATION DT. 27.5.2006 ISSUED BY THE DISTRICT OFFICER, THE DEPARTMENT OF BACKWARD CLASSES AND MINORITIES, TUMKUR DISTRICT, TUMKUR, PUBLISHED IN KANNADA DAILY NEWSPAPER 'PRAJAPRAGATI' DT. 28.5.2005 VIDE ANNEX.B. AND TO DIRECT THE

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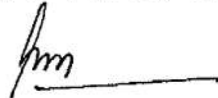
RESPONDENTS HEREIN TO RECALL THE TENDER GIVING SUFFICIENT TIME TO THE PETITIONER TO FILE TENDER FORM.

This writ petition, coming on for preliminary hearing, this day, the Court made the following:-

O R D E R

The petitioner assailing the correctness of the tender notification dated 27th May 2006 bearing No.BCM/3/CR/1/2006-07 issued by the District Officer, Department of District Backward Classes and Minorities, Tumkur District, which was published in the Kannada daily news paper 'Praja Pragati' on 28th May 2005 vide Annexure B, has presented the instant writ petition. Further, petitioner has sought for a direction, directing the respondents to recall the tender by giving sufficient time to the petitioner to file tender form.


2. The grievance of the petitioner in the instant case is that, the Chief Executive Officer of the first respondent Zilla Panchayath, Tumkur, has called the tenders for supply of food articles, fruits, vegetables and



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other miscellaneous articles which are necessary for hostels run by them within the Tumkur District. The said notification could not be carried out since none of the bidders were qualified. Be that as it may.

3. The second respondent has issued the fresh tender notification, calling for tenders from the interested bidders on 27th May 2006 and the same has been notified and published in the Kannada daily news paper 'Praja Pragathi', widely circulated in Tumkur District on 28th May 2006. As per the said tender notification, the last date for issuance of tender form was fixed as 31st May 2006 and the last date for receipt of filled-in tender forms was fixed as 5th June 2006, thus leaving only five days for the tenders to submit their tender forms. The grievance of the petitioner herein is that, the said tender notification is issued contrary to the mandatory provisions of the Karnataka Transparency in Public Procurements Act and Rules, which stipulates that, a minimum of thirty days or

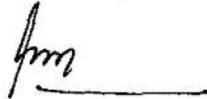


more should be given for submission of tender forms. Therefore, it is the case of petitioner that, the impugned tender notification is issued without following the mandatory provisions of the said Act and rules and hence, the same is liable to be set aside. Therefore, being aggrieved by the said impugned tender notification, petitioner felt necessitated to present the instant writ petition, seeking appropriate directions, as stated supra.

4. I have heard learned counsel appearing for petitioner and learned Government Pleader appearing for respondents. After perusal of the impugned tender notification dated 27th May 2006 issued and published in the daily newspaper on 28th May 2006, I do not find any error as such committed by the second respondent in issuing and publishing the same. The said notification is in compliance of Section 17(2) of the Karnataka Transparency in Public Procurements Act and Rules, 2000, under which it is crystal clear that, any reduction in

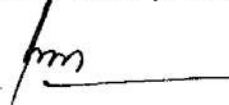


time stipulated under sub Rule (1) has to be specifically authorised by an authority superior to the tender inviting authority for reasons to be recorded in writing. After careful evaluation of the records made available by the learned Government Pleader, it is seen that, the earlier tender notification has been cancelled for reasons that are recorded and thereafter the competent authority has directed the second respondent to issue the impugned tender notification. The said notification is issued having regard to the urgency in the matter for supply of food articles, fruits, vegetables to the hostels in Tumkur District by taking necessary authorisation. Hence, in view of urgency in the matter that, the academic year of the primary schools had already commenced, the second respondent by taking authorisation/permission from the first respondent, has issued the impugned tender notification. The said decision is in accordance with law and does not call for interference. Hence, I do not find



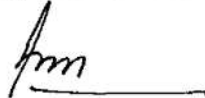
any error much less irregularity in issuing the impugned tender notification. Hence, interference by this Court, at this stage, is not justifiable in view of the reasons assigned as per the original records made available by the learned Government Pleader.

5. So far as the bone of contention of the petitioner that, the impugned notification issued is one without jurisdiction and the same is contrary to the relevant provisions of the Transparency in Public Procurements Act and Rules, it can be seen that, as per Rule 17(1)(a), it is mandatory that, a minimum 30 days' period should be given for the bidders to participate in the tender. It is the grievance of petitioner that, in the instant case, in view of not affording sufficient time as stipulated under the mandatory provisions of the Act and Rules, the petitioner could not get himself ready and comply with the terms and conditions and participate in the same. Further, learned counsel for petitioner also placed reliance on the



judgment of this Court in support of his case. However, the said submission cannot be accepted in view of the fact that, the academic year of the primary schools had already commenced and there was immediate need for food articles and other miscellaneous articles to the hostels in Tumkur District. If, now the said notification is interfered with, then, it would cause great hardship and would affect the public exchequer.

6. Yet another reason as to why the instant writ petition is liable to be rejected at the threshold is that, when the Chief Executive Officer had earlier issued the tender notification on 3rd May 2006, the petitioner had the knowledge of the terms and conditions of the tender notification that may be imposed again when the tenders are invited and petitioner could have got himself ready and participated in the said tender notification. Therefore, having regard to the facts and circumstances of the case, interference in the impugned tender notification is not



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justifiable nor I find any good grounds to entertain the instant writ petition.

7. For the foregoing reasons, the writ petition filed by petitioner is dismissed as devoid of merits.

8. Learned Government Pleader is permitted to file memo of appearance within two weeks from today.

Sd/—
Judge

BMV*