

**IN THE HIGH COURT OF KARNATAKA, BENGALURU**

**DATED THIS THE 28<sup>th</sup> DAY OF FEBRUARY 2013**

**BEFORE**

**THE HON'BLE Dr.JUSTICE VINEET KOTHARI**

**WRIT PETITION No.4983/2018 (GM-TEN)**

**BETWEEN:**

M/S. SRI. MANJUNATHA BOREWELLS  
SHIDLAGHATTA  
CARRYING ON ITS BUSINESS  
AT ABLLODU VILLAGE AND POST  
SHIDLAGHATTA TALUK  
CHIKKABALLAPURA DISTRICT-562105  
REP. BY ITS PROPRIETOR  
SHRI. A.N. MANJUNATH.

... PETITIONER

(By Mr. D.N. NANJUNDA REDDY, SENIOR COUNSEL FOR  
Mr. PRAKASH T. HEBBAR, ADV.,)

**AND:**

1. STATE OF KARNATAKA  
SOCIAL WELFARE DEPARTMENT  
VIKASA SOUDHA  
DR. AMBEDKAR ROAD  
BENGALURU-560001  
REP. BY THE ADDL. CHIEF SECRETARY.
2. THE DEPUTY GENERAL MANAGER  
CHAIRMAN, TENDER SCRUTINY AUTHORITY  
DR. B.R. AMBEDKAR DEVELOPMENT  
CORPORATION LTD., NO.SA-11, 2<sup>ND</sup> FLOOR  
JILLADHALITHA BHAVANA  
SHIDLAGHATTA ROAD  
CHIKKABALLAPURA-562101.

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3. THE DISTRICT MANAGER/  
TENDER INVITING AUTHORITY  
DR. B.R. AMBEDKAR DEVELOPMENT  
CORPORATION LTD.,  
NO.SA-11, 2<sup>ND</sup> FLOOR  
JILLADHALITHA BHAVANA  
SHIDLAGHATTA ROAD  
CHIKKABALLAPURA-562101.
4. THE DEPUTY COMMISSIONER  
TENDER ACCEPTING AUTHORITY  
DR. B.R. AMBEDKAR DEVELOPMENT  
CORPORATION LTD.,  
NO.SA-11, 2<sup>ND</sup> FLOOR  
JILLADHALITHA BHAVANA  
SHIDLAGHATTA ROAD  
CHIKKABALLAPURA-562101.
5. M/S GEO CONSULTANCY SERVICES  
A PARTNERSHIP FIRM  
NO.485, 10<sup>TH</sup> CROSS, 8<sup>TH</sup> MAIN  
SADASHIVANAGARA  
BENGALURU-560008  
REP. BY ITS PROPRIETOR  
DR Y.M. MUNIRAJU.

... RESPONDENTS

(By Mr. VIJAYKUMAR A. PATIL, AGA FOR R1  
Mr. NARAYANASWAMY K, ADV., FOR C/R5  
R2, R3 & R4 – SERVED & UNREPRESENTED)

THIS W.P. IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DTD 24.01.2018 PASSED BY THE FIRST RESPONDENT AS PER ANNEX-A. DIRECT THE TENDER ACCEPTANCE COMMITTEE/THE DEPUTY COMMISSIONER, CHIKKABALLAPURA DISTRICT (RESPONDENT NO.4), TO ISSUE WORK ORDER TO THE PETITIONER IN PURSUANCE OF THE ACCEPTANCE OF THE TECHNICAL/FINANCIAL BID APPROVED BY THE FOURTH RESPONDENT IN TERMS OF ANNEXURE-D & G WITHIN TIME FRAME THAT MAY BE FIXED BY THIS HON'BLE Court & ETC.,

THIS W.P. COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:-

**ORDER**

**Mr. D.N. Nanjunda Reddy**, Senior Counsel for  
**Mr. Prakash T. Hebbar**, Adv. for Petitioner  
**Mr. Vijay Kumar A. Patil**, AGA for R1  
**Mr. Narayanaswamy K**, Adv. for C/R5

1. The petitioner – **M/s. Sri. Manjunatha Borewells** has filed this writ petition in this Court on **31.01.2018** with the following prayers:-

*“(a) To issue a writ of certiorari or any other appropriate writ order or direction to quash the impugned order No.Sa.Ka.E-559-SDC/2017, Bengaluru, dated 24-01-2018 passed by the first respondent as per Annexure -A.*

*(b) To issue a writ of mandamus or any appropriate writ, order or direction to direct the Tender Acceptance Committee/the Deputy Commissioner, Chikkaballapur District (respondent No.4), to issue work order to the petitioner in pursuance of the acceptance of the Technical/Financial bid approved by the fourth respondent in terms of Annexure-D & G within time frame that may be fixed by this Hon'ble Court in the facts and circumstances of the case.*

*(c) To award cost of the proceedings to the Petitioner.*

*(d) To grant such other or further relief as this Hon'ble Court may deem fit and proper including the cost of this proceedings to the petitioner".*

2. The main grievance raised in the present writ petition against the order passed by the Appellate Authority namely, the Addl.Chief Secretary to the Government, Social Welfare Department, vide **Annexure-A** dated **24.01.2018**, which had allowed the appeal of the 5<sup>th</sup> Respondent-**M/s.GEO Consultancy Services** and competitor in the bidding process for digging of the Borewells in Chickballapur District and while allowing the said appeal by the said Appellate Authority **u/s.16** of the Karnataka Transparency in Public Procurements Act, 1999, interalia, the Authority stated that the technical bid of the present petitioner was not in accordance with the Tender Notification dated **23.08.2017** and even though it was a small mistake, it was clear that the conditions of the Tender

were violated. The operative portion of the said order is quoted below for ready reference:-

*“ The points of issue and the relevant documents submitted by the appellants and the appellants and opponents have been examined. In this case, tender has been called on 23-08-2017, as per the tender condition 3.3(a)(i) the bidder must have Lease Agreement from the rig vehicle owner as on the date of tender notification. But, Entering into lease agreement four days after the Tender Notification like this, that is on 27-08-2017 is contrary to Tender Rules. Even though this is a small mistake, it is very clear that the conditions of the tender has been violated. Therefore, it has been ordered as here under.*

**Government Order No.Sa.Ka.E.559.S.D.C.**  
**2017**

**Bangalore, Dated: 24-01-2018**

*The appeal submitted by M/s. Geo Consultancy Services, Bangalore, has been honoured for the above reasons, discussed in the preamble. It has been ordered to call for re-tender, for a small duration, canceling the tender notification dated 23-08-2017, called by the Dr. B.R. Ambedkar Development Corporation, to dig*

*borewells under Ganga Kalyana Plan in Chikkaballapur District for installing pump-sets and to supply ancillary equipment and to appoint Third Inspection Organization.*

*Under the orders of  
Governor of Karnataka and in his name*

*Sd/-  
M. Lakshminarayana  
Seal of Additional Chief Secretary to Government  
Social Welfare Department*

*Sd/-  
Seal of Deputy General Manager  
Dr. B.R. Ambedkar Development Corporation Ltd,  
Bangalore Division, Bangalore”.*

3. The learned Senior Counsel for the petitioner Mr.D.N.Nanjunda Reddy has submitted that the present petitioner was not even impleaded by the 5<sup>th</sup> Respondent in the said appeal, by which he only challenged the technical bids given in pursuance of the said Tender Notice and while challenging the technical bid of the present petitioner-M/s.Manjunatha Borewells, it was incumbent upon the appellant-M/s.GEO Consultants Services to implead the present petitioner

also equally necessary and it was for the Appellate Authority to serve the notice of the said appeal upon the present petitioner and thereafter, giving an opportunity of hearing to the parties concerned, such an appeal could have been decided.

He however submitted that in the meanwhile Dr.B.R.Ambedkar Development Corporation, Chickballapura, has issued fresh Tender Notification for various Projects including the digging of the Borewells in Chickballapur District on **12.02.2018**.

4. Having heard the learned counsels for the parties, this Court is of the opinion that the impugned order dated **24.01.2018** suffers from the vice of breach of the principles of natural justice and the same deserves to be set aside on this short ground and the matter deserves to be restored back to the Appellate Authority to decide the same again after hearing the concerned parties.

5. Accordingly, on this short ground only, the writ petition is allowed and the impugned order **Annexure-A** dated **24.01.2018** passed by the Addl.Chief Secretary to the Government, Social Welfare Department, is set aside and the said appeal is restored back on the file of the said Authority and the parties are directed to appear before the said Authority in the first instance on **12.03.2018** at **11 AM** and the said Authority is directed to pass fresh orders on the appeal in accordance with law within a period of three weeks thereof.

Tili the appeal is again decided by the said Appellate Authority, the fresh Tender Notification *qua* the present Project of digging of borewells in question at Chickballapur shall not be given effect to.

No costs.

Sd/-  
JUDGE

Srl.