

IN THE HIGH COURT OF KARNATAKA

August 1, 2005

K. L. Manjunath, J.

JAYARAJ

v

STATE OF KARNATAKA AND OTHERS

Writ Petition No. 10703 of 2005.

The Court, made the following:

ORDER

Heard the learned Counsels for the parties.

2. A notification was issued inviting tenders for supply of food materials like bread, milk *etc.*, to the different hospitals of Chitradurga District. Annexure-A is the notification dated 17-2-2005 permitting the applicants to obtain the documents on or before 11-3-2005 and submit the same on or before 15th March, 2005 before 11 p.m. The present petition is filed by the petitioner on the ground that the notification is contrary to Rule 17 of the Karnataka Transparency in Public Procurements Rules, 2000. According to the petitioner, if the value of tender is upto rupees two crores, the authorities have to give a minimum period of 30 days to receive the tender documents from the date of publication. Therefore, relying upon Rule 17, petitioner has approached this Court to quash the notification dated 17-2-2005 contending that the last date fixed by the 4th respondent to receive the tender document as 15-3-2005 will fall short of two days. Therefore, contending that Annexure-A is not in accordance with Rule 17, he requests this Court to quash the same.

3. Learned Additional Government Advocate contends that there is a shortfall of 2 days in publishing the tender notification, since the officials were engaged in election duty. Therefore, he requests this Court to condone the lapse and permit the respondents to proceed with the tender process.

4. Having heard the learned Counsels for the parties, what is required to be considered by this Court in this writ petition is; whether Annexure-A, dated 17-2-2005 issued by the 4th respondent is in accordance with Rule 17 of the Karnataka Transparency in Public Procurements Rules, 2000 and whether this Court can permit the respondents to proceed with the finalisation of tender process.

5. Facts of this case are not in dispute. Notification has been issued by the 4th respondent as per Annexure-A on 17-2-2005 inviting applications from the eligible candidates to submit the applications on or before 15-3-2005. From this, it is clear that there is short of 2 days as per Rule 17(1)(a) of the Karnataka Transparency in Public Procurements Rules, 2000, which reads hereunder:

“17. Minimum time for submission of tenders.—(1) The Tender Inviting Authority shall ensure that adequate time is provided for the submission of tenders and a minimum time is allowed between date of publication of the notice inviting tenders in the relevant Tender Bulletin the last date for submission of tenders. This minimum period shall be as follows.—

(a) for tenders upto rupees two crores in value, thirty days; and (b) for tenders in excess of rupees two crores in value (thirty days).

(2) Any reduction in the 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”.

6. From a reading of the above provision, it is clear that the time stipulated under sub-rule (1) can be reduced by an authority superior to the tender inviting authority for the reasons to be recorded in writing. Even if the officials of the respondents were deputed on election duty, even if the notification is not in accordance with sub-rule (1)(a) of Rule 17, still the 4th respondent or 3rd respondent could have obtained permission from the superior authority to publish the notification even before completion of 30 days' time. The respondents have not explained the reasons for having not obtained such permission from the superior authorities. Even though the law provides for such an act, when the respondents have acted contrary to

the Rule 17(2) of the Rules 2000, this Court has to quash Annexure-A issued by the 4th respondent contrary to sub-rule (1)(a) of the Rules. When such being the case, this Court cannot permit the respondents to proceed with the finalisation of the tender, when the respondents have committed an error on the face of the record.

7. In the result, the writ petition is allowed. Annexure-A, dated 17-02-2005 issued by the 4th respondent is hereby quashed. It is open for the 4th respondent to issue fresh notification for the remaining period and to finalise the tender process in accordance with law.
