

**IN THE HIGH COURT OF KARNATAKA**

*October 17, 2008*

*N. K. Patil, J.*

**K. TIRUPATI REDDY**

*v*

**THE MANAGING DIRECTOR, KARNATAKA NIRAVARI NIGAMA LIMITED,  
BANGALORE AND ANOTHER**

**Writ Petition No. 12774 of 2008.**

*The Court*, made the following:

**ORDER**

The petitioner, being aggrieved by the impugned tender notification dated 10th September, 2008 issued by the second respondent bearing No. KNNL:MBC:DN-1:DB:TND:08-09:1565 *vide* Annexure-A, has presented this writ petition.

2. The undisputed facts of the case are that: petitioner earlier had filed a writ petition before this Court in W.P. No. 8943 of 2008. The said writ petition has been disposed of by this Court on 1st August, 2008 with a direction to the respondents therein to issue fresh notification in accordance with relevant provisions of the Karnataka Transparency in Public Procurements Rules, 2000 and to proceed with the tender process. After disposal of the said writ petition, the second respondent herein has issued the impugned tender notification dated 10th September, 2008. It is the further case of the petitioner that, without following the procedures as envisaged under the Karnataka Transparency in Public Procurements Act, 1999 and Karnataka Transparency in Public Procurements Rules, 2000 and without giving clear thirty days' time, as provided under clauses (a) and (b) of Rule 17-A, the impugned notification issued by the second respondent is liable to be set aside on this ground alone. Therefore, petitioner was constrained to redress his grievance by presenting this writ petition.

3. I have heard learned Counsel appearing for petitioner and learned Counsel appearing for respondents.

4. After careful perusal of the material available on record, it emerges that, sub-rule (2) of Rule 17 of the Karnataka Transparency in Public Procurements Rules, 2000, states that: "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". In the instant case, as rightly pointed out by the learned Counsel appearing for respondents, due to urgency in the matter and for completion of canal to enable the authorities to provide water supply to the farmers of that area, the Superintending Engineer of the respondents-Nigam has issued the authorisation to the second respondent on 30th August, 2008 to process fresh tender notification and accordingly, after obtaining necessary authorisation, the impugned tender notification has been issued by the second respondent, and the same is strictly in consonance with the rules as referred above. However, learned Counsel appearing for petitioner-Sri Venkatesh P. Dalwai at the outset submitted that, the authorising authority is only the first respondent and not the Superintending Engineer of the respondents-Nigam. The said submission made by learned Counsel appearing for petitioner cannot be accepted nor it has not substance, for the reason that, as per sub-rule (2) of Rule 17 as referred above, 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. In the instant case, the authorisation has been issued by the Superintending Engineer of the respondents-Nigam dated 30th August, 2008 to the second respondent and thereafter, he has issued the impugned notification. Therefore, I do not find any error or illegality as such, committed by the second respondent in issuing the fresh tender notification. Nor the petitioner has made out any good grounds to entertain the relief as sought for by petitioner in the instant writ petition.

**5.** Further, the instant writ petition filed by petitioner is liable to be rejected, at the threshold is in view of suppression of material facts, as rightly pointed out by learned Counsel appearing for respondents that, petitioner's tender is rescinded with risk, due to non-completion of work entrusted to him *i.e.*, formation of canal and remaining 32% of the work has to be carried out and for the said purpose only, the re-tender notification has been issued by the second respondent. In view of the suppression of facts since the petitioner has not approached this Court with clean hands and stated the true facts, the writ petition filed by petitioner is liable to be dismissed on the said ground also.

**6.** In the light of the facts and circumstances of the case as stated above, the instant writ petition filed by petitioner is dismissed with cost of Rs. 5,000/-. The said cost of Rs. 5,000/- is to be payable by the petitioner to the second respondent within two weeks from the date of receipt of a copy of this order. Failing which, the respondents are at liberty to initiate necessary proceedings to recover the said amount.

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