

(2013) 05 KAR CK 0004

In the Karnataka High Court

Case No : Writ Petition No. 18989 of 2013 (GM-RES)

BCITS Private Limited (formerly known as Bellary Computer
IT Solutions Private Limited)

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 09-05-2013

Acts Referred:

Arbitration Act, 1940 — Section 9

Karnataka Transparency in Public Procurements Act, 1999 — Section 16

Citation : (2013) 4 KarLJ 39

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : Udaya Holla, for Sri Vivek Holla, for the Appellant; R.B. Sathyanaraya Singh, High Court Government Pleader, D.N. Nanjunda Reddy for S. Sriranga and V.S. Naik, for the Respondent

Judgement

Ram Mohan Reddy, J.—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. 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 17-12-2102, 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 of 2013 before the City Civil and Sessions Judge u/s 9 of the Arbitration Act, 1940 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.

2. 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 27th of May, 2013.

3. Sri D.N. Nanjunda Reddy, learned Senior Counsel for respondent-BESCOM 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 Clauses 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 BESCOM is not averse to issue a direction to the Appellate Authority to hear and dispose of the appeal within a time frame.

4. 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. 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 17th May, 2013 at 11.00 a.m., conclude the proceeding and pass orders on or before of 27th 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.