

(2025) 09 KAR CK 0561

In the Karnataka High Court, Kalaburagi Bench

Case No : Writ Petition No. 203008 Of 2025 (GM-TEN)

Mahanthaswamy R. Virakthamath

APPELLANT

Vs

Superintending Engineer(MM-1) & Ors.

RESPONDENT

Date of Decision : 30-09-2025

Acts Referred:

Karnataka Transparency In Public Procurements Act, 1999 — Section 16
Karnataka Transparency In Public Procurements Rules, 2000 — Rule 29

Citation : (2025) 09 KAR CK 0561

Hon'ble Judges : T.M. Nadaf, J

Bench : Single Bench

Advocate : Sachin M. Mahajan, Arunkumar Amargundappa

Final Decision : Disposed Of

Judgement

T.M. Nadaf, J

1. Heard Sri Sachin M Mahajan, learned counsel for Sri D. P. Ambekar, learned counsel for the petitioner and Sri Arunkumar Amargondappa, learned counsel for respondents No.1 and 2.

2. This petition is filed on the ground that, appeal filed under the Karnataka Transparency in Public Procurements Act, 1999 read with Rule 29 of the Karnataka Transparency in Public Procurements Rules, 2000 (hereinafter referred to as 'KPPT Act') calling in question rejection of tender of the petitioner on the ground of eligibility criteria was not taken on record and tender was allotted to respondent no.3, despite the petitioner trying to file appeal against said order before respondent no.2, who is appellate authority as per the provisions, he was prevented from entering into premises by CISF as per the directions of respondent no.2. The petitioner at paragraph no.12 has taken specific contention that fact that he had been to office of respondent no.2 to file appeal under Section 16 of the KTPP Act, however respondent no.2 did not allow the petitioner to enter the establishment/office situated in RTPS, Shaktinagar, which is closely

guarded by Central Industrial Security Force (CISF), which forced the petitioner to send the appeal by RPAD. Though the same was received, respondent no.2 did not take any action and in the meanwhile, work order has been issued in favour of respondent no.3. Accordingly, he sought to allow the petition and direct respondent no.2 to consider the appeal and pass appropriate orders.

3. Refuting the submission of learned counsel for the petitioner, Sri Arunkumar Amargundappa, learned counsel vehemently denied allegations made against respondent no.2 at paragraph no.12 in toto and submitted that petitioner was not prevented from filing the appeal and now, the work order has been issued in favour of respondent no.3 and in the event work order is stayed, it would effect generation of electricity. However, the appeal which has been sent through RPAD would be considered by the appellate authority and appropriate orders would be passed within fortnight. Accordingly, he sought to dismiss the petition.

4. Heard the learned counsel for both parties and perused the entire papers of writ petition.

5. Paragraph no.12 of the writ petition is extracted below for easy reference:

"12.It is submitted that time was running out as things were getting obvious that the tender/bid of the respondent No.3 would be accepted and eventually work order would be issued to the respondent No.3, even though the respondent No.3 does not possess the requisite qualification. Therefore, in the light of glaring illegality committed by the concerned authority, on 13.09.2025 the petitioner herein approached the respondent No.2, which the appellate authority in the matter in order to filed appeal under section 16 of the KTPP Act, 1999 and the KTPP Rules, 2000, with a prayer to set aside the order of acceptance of technical bid of the respondent No.3, consequently reject the technical bid of the respondent No.3 and issue work order in favour of the petitioner herein. However, to the shock and astonishment of the petitioner herein, the respondent No.2 did not even allow the petitioner herein to enter the establishment/office of the respondent No.2 situated in RTPS, Shaktinagar, which is very closely guarded by Central Industrial Security Force (CISF). The petitioner requested the concerned officials, including the respondent No.2 herein to let him inside to file the appeal, which is his statutory right. However, the request made by the petitioner herein through phone/intercom communication fell to deaf ears and he was not allowed to enter inside the premises of RTPS."

6. As per submission of learned counsel for respondents, if petitioner was not prevented from entering the office, there is no reason for him to send the appeal through RPAD. In these circumstances, this Court is of the opinion that the appeal, being a statutory appeal under Section 16 of KTPP Act, appellant authority is bound to consider the appeal and dispose off the same. Any deviation and issuance of work order in haste, clearly shows arbitrariness of authority. At the same time, it should not be lost sight that RTPS is generating electricity and continuous maintenance of work is required, for which the tender

was called.

7. Considering the same, this Court is of the opinion that the work order issued in favour of respondent no.3 be kept in obedience till disposal of the appeal by appellate authority i.e. respondent no.2, since the eligibility criteria for allotment of tender is called in question, which reads as under:

"ELIGIBILITY CRITERIA (POR CONDITIONS):

The intending bidder shall satisfy the following minimum qualifying requirements and produce documentary evidences as indicated below, the fulfillment of which is a pre-requisite for opening of Part-II (PRICE BID).

1. Experience:

The intending bidder should have satisfactorily completed as a prime contractor, at least one similar work such as Maintenance of Mill area/Routine, preventive and Breakdown Maintenance of Mill reject handling system (MRHS)/Conveyor belt of size 600mm width in XRP-803 / HP-803 / XRP-903 and above size bowl mills and its auxiliaries of value not less than Rs.20.10 Lakhs (Exclusive of GST) in the last five years (i.e., 2020-21, 2021-22, 2022-23, 2023-24 and 2024-25) in any Thermal power stations having capacity of Generating Unit not less than 200 MW.

As a proof of this, the bidder should upload a single work order and corresponding work done certificate issued by the Competent Authority (Work done of previous years shall be given weight at 10% per year to bring them to the present price level of the financial year)."

8. If there is any hindrances in generation of electricity for short of maintenance, specialised services involving mechanical works, including the work of "Routine, Preventive and Breakdown Maintenance of Mill Reject Handling System (MRHS) and conveyor belt of size 600mm width of Unit-5, 6 and 7" of Raichur Thermal Power Station (RTPS), the earlier arrangements prior to tender notification be continued, till disposal of the appeal by the authorities.

9. Appellate authority is directed to take appeal on record, issue notice to respondent no.3 and the decide the issue, after giving opportunity to both parties within an outer limit of 10 days from today.

10. With these observations, writ petition is disposed off.