
(2011) 02 KL CK 0116

In the High Court Of Kerala

Case No : Writ Petition (C) No. 3613 of 2011 (B)

Malabar Associates

APPELLANT

Vs

State of Kerala, Chief Engineer, Public Works Department,
The Superintending Engineer and Kerala State Construction
Corporation

RESPONDENT

Date of Decision : 04-02-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 19(1)

Citation : (2011) 02 KL CK 0116

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : Elvin Peter P.J, for the Appellant; M.V. Thambran, for the Respondent

Final Decision : Dismissed

Judgement

Antony Dominic, J.—Petitioner is a partnership firm which has obtained A Class registration with the Public Works Department. Ext.P1 is a notification issued by the first Respondent inviting pre-qualification bids for the works mentioned therein. This notification, inter alia, provides that concession which is allowed to the Kerala State Construction Corporation and Labour Contract Co-operative Societies as per Rules in force will be applicable. According to the Petitioner, such a provision in Ext.P1 has been made on the basis of Exts.P2 and P3, which are Government Orders dated 28-04-1988 and 07-08-1997 respectively, which provide for a price preference of 10% in favour of the fourth Respondent, a Government Company.

2. Petitioner impugns the validity of Exts. P2 and P3 and the aforesaid provision of Ext.P1. According to the Petitioner, this provision is violative of Articles 14 and 19(1)(g) of the Constitution of India.

3. In my view, the Government being the awarder of contract, it is also open to the Government to frame a policy providing for price preference in favour of the

institutions such as Government Companies like the fourth Respondent and if such a price preference is provided, there cannot be any invalidity as sought to be made out by the Petitioner. This issue is covered by the Apex Court judgments in Krishnan Kakkanth Vs. Government of Kerala and ohters, , Harminder Singh Arora Vs. Union of India (UOI) and Others, , Madhya Pradesh Ration Vikreta Sangh Society and Others Vs. State of Madhya Pradesh and Another, and also a Division Bench judgment of this Court reported in Biodigital (P) Ltd. v. State of Kerala and Ors. ILR 2010 (4) Ker 462.

In that view of the matter, the writ petition is dismissed.