

(2017) 07 KL CK 0009
In the High Court Of Kerala
Case No : 12055 of 2017 (F)

R.VISWANATHAN,? S/O.RAGHAVAN Vs STATE OF KERALA

Date of Decision : 12-07-2017

Acts Referred:

Citation : (2017) 07 KL CK 0009

Hon'ble Judges : P.B.Suresh Kumar

Bench : SINGLE BENCH

Advocate : K.V.ANIL KUMAR, B.MOHANLAL, H.PRAVEEN

Final Decision : Dismissed

Judgement

1. The petitioner is a contractor. The third respondent Grama Panchayat has invited tenders for execution of two civil works. Ext.P1 is the invitation. The petitioner and the additional fifth respondent participated in Ext.P1 tender process. For work No.1 referred to in Ext.P1, the petitioner as also the additional fifth respondent quoted the estimate rate and for work No.2, the petitioner quoted 0.99% below the estimate rate the additional fifth respondent quoted 1% below the estimate rate. The Panchayat, however, cancelled the said tender process and invited tenders afresh for the very same works. Ext.P3 is the notice inviting fresh tenders. According to the petitioner, Ext.P3 invitation is vitiated by mala fides as the same is issued with a view to award both the works to the additional fifth respondent, as the Panchayat cannot otherwise

do so, in the light of the lower tender submitted by the petitioner in respect of work No.2. It is alleged by the petitioner that both the works have been awarded by the Panchayat to the additional additional fifth respondent as planned in the re-tender. The petitioner therefore, seeks directions to the Panchayat to finalise the tender process pursuant to Ext.P1 invitation.

2. A statement had been filed on behalf of the Panchayat initially. Later, a detailed counter affidavit was also filed by the Panchayat. The stand taken by the Panchayat in the statement as also in the counter affidavit is that the Panchayat Committee, on consideration of the bids submitted by the petitioner and the additional additional fifth respondent, entertained a doubt as to whether the bids have been submitted by the petitioner and the additional fifth respondent in collusion, and the decision to invite fresh bids was taken on account of the said reason.

3. Heard the learned counsel for the petitioner, the learned counsel for the Panchayat as also the learned counsel for the additional additional fifth respondent.

4. Ext.R2(c) is the decision taken by the Panchayat on 30.3.2017 pertaining to the bids received pursuant to Ext.P1 invitation. The relevant portion of Ext.R2(c) reads thus :

"VERNACULAR MATTER OMITTED"

When an awarder feels that the participants in a tender process have colluded and competitive offers have consequently not come for execution of works, it is always open to the awarder to invite fresh bids. In the said view of the matter, according to me, there is nothing wrong in Ext.R2(c) ? decision taken by the Panchayat. It is all the more so since

Ext.R2(c) is a decision unanimously taken by all the members of the Panchayat Committee except its President.

5. The learned counsel for the petitioner contends that the materials on record indicate that the earlier tender process was cancelled solely for the purpose of awarding the works to the additional additional fifth respondent. Going by Ext.R2(c) decision, I do not think that such an inference can be made from the materials on record.

The writ petition, in the circumstances, is devoid of merits and the same is, accordingly, dismissed.