

(2014) 08 KAR CK 0098

In the Karnataka High Court

Case No : Writ Petition No. 202475 of 2014 (LB-TEN)

Syed Akbar Pasha

APPELLANT

Vs

The Tender Evaluation Committee

RESPONDENT

Date of Decision : 01-08-2014

Acts Referred:

Karnataka Transparency in Public Procurements Act, 1999 — Section 16

Citation : (2014) 5 KarLJ 565

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : Ameet Kumar Deshpande, Advocate for the Appellant; Sriyuths Manvendra Reddy, Government Advocate, Sachin M. Mahajan and Mahantesh Patil, Advocate for the Respondent

Judgement

B.S. Patil, J.—This writ petition is filed challenging the decision taken in the meeting dated 24-2-2014 presided by the Superintendent Engineer, Public Works and Inland Water Transport Department, Bellary Zone, Bellary regarding the tender submitted for improvements to a road from Manvi Cross to Gavigat via Aldal in Raichur District. As per the impugned resolution/decision, technical bid submitted by the petitioner has been rejected based on the evaluation report submitted by the Executive Engineer. The reason for the rejection of the technical bid is, petitioner had excess work in hand. The impugned resolution is passed on 24-2-2014. This was followed by communication addressed to the Chief Engineer, North Dharwad on 26-2-2014 vide Annexure-R4 produced by the State Government along with the statement of objections forwarding the recommendations of the committee after analysing the bids of the remaining persons with regard to the work. Later on, the bid of the 7th respondent has been accepted and a contract was entered into as per Annexure-R5-agreement dated 4-3-2014. Work order has been issued on the same day, as is evident from Ex. R. 6 and it is urged by respondent 6 that he had carried on the work until the interim order was granted in the said case on 23-5-2014.

2. Learned Counsel for the petitioner submits that the entire proceeding initiated against the rejection of the technical bid itself is illegal, as the bid could not have been rejected on the ground that the petitioner had excess work in hand.

3. Learned Counsel for the respondents submit that petitioner has got alternative remedy to file an appeal under Section 16 of the Karnataka Transparency in Public Procurements Act, 1999 (for short, "the Act"). This is resisted by the petitioner stating that what is he challenging is the rejection of the technical bid and therefore, Section 16 of the Act has no application.

4. Having heard the learned Counsel for both parties, I find that after rejecting the technical bid of the petitioner before the writ petition was filed, the bid of the 7th respondent has been accepted and an agreement has been entered into awarding the contract in his favour. Therefore, the petitioner if at all aggrieved has to approach the Appellate Authority as provided under Section 16 of the Act. When a statutory remedy of appeal is provided, it is not proper to interfere in exercise of the writ jurisdiction. Hence, reserving liberty to the petitioner to file an appeal, this writ petition is dismissed. It will be open to the petitioner to urge that the time taken in prosecuting this writ petition may be excluded while computing the period of limitation.