

(2001) 06 KL CK 0032
In the High Court Of Kerala
Case No : O.P. No. 16442 of 2001

Venugopalan

APPELLANT

Vs

Corporation of Cochin

RESPONDENT

Date of Decision : 25-06-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 06 KL CK 0032

Hon'ble Judges : M. Ramachandran, J

Bench : Single Bench

Advocate : T.A. Shaji, M.A. Asif, P.M. Indu and Lathiya Gopalan, for the Appellant; Asok M. Cherian, Philip J. Vettickattu and Deepak T. Nedungadan, for the Respondent

Final Decision : Dismissed

Judgement

M. Ramachandran, J.—This Original Petition has been challenged in view of the circumstance that the petitioner had not been awarded the right for collection of Advertisement Tax consequent to tender notifications as evidenced by Exts. P1, P2 and P3. Petitioner points out the sequence of events and submits that he was the highest tenderer who has quoted Rs. 1,24,548/- in the re-tender. The second respondent has been preferred, according to him, with malafides and behind his back and practically he has to get the right for collection of Advertisement Tax.

2. In the aforesaid circumstances, I have called for the original files from the Corporation. Standing Counsel Sri. Asok M. Cherian had made available the files. It was found that after the re-tender, the petitioner was the highest tenderer. But nevertheless negotiations had been arranged as the Corporation was of the view that the amount quoted by the participants were not sufficiently attractive. At the time of negotiation, the petitioner had taken a definite stand that he has not willing to quote any further premium. It was only after that the Corporation submits, the view of second respondent had been ascertained, and the contract was finalised in his favour for higher rate though still not very much attractive.

Subsequently, on 2.5.2001, the petitioner had appeared with a better offer but by that time, the contract had been finalised and his offer was turned down. It is submitted by the Corporation that it cannot be permissible for the parties to go on with quoting indefinitely.

3. The petitioner submits that the tender conditions did not authorise for a negotiation after the tenders are opened. The position is well settled that in an attempt to see that maximum revenue forthcomes, it will be open for a public authority to add on stipulations, offering equal opportunity to the participants to partake in negotiations. There is nothing irrational or unethical in such steps being taken. It is not necessary that the tender condition should contain a stipulation to that effect and it can always be incorporated at the discretion of the authority who has competence to make such decision. The rider is that it is to be done in public interest. In view of the adamant stand which had been taken by the petitioner, he is estopped from putting up any other contentions for upsetting the concluded contracts. The Original Petition is therefore dismissed.