

(1981) 05 KAR CK 0004
In the Karnataka High Court
Case No : Writ Petition No. 10026 of 1981

Vonti Chennappa

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 28-05-1981

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Forest Rules, 1969 — Rule 88 (2)
Representation of the Peoples Act, 1951 — Section 9 A

Citation : AIR 1982 Kar 91 : (1981) ILR (Kar) 1305

Hon'ble Judges : K.S. Puttaswamy, J

Bench : Single Bench

Advocate : K.G. Raghavan, for the Appellant;

Judgement

1. In this petition under Art. 226 of the Constitution, the petitioner has challenged the auction sale of minor forest produce in respect of Tupra leaves of Sandur Firka and minor forest produce of Hospet taluk.

2. Among others, the petitioner is a forest contractor for, the removal of the minor forest produce in the aforesaid areas the term of which is due to expire on 30-6-1981.

3. For the two years period commencing from 1-7-1981, respondent 4 initiated action for the disposal of the forest produce of the aforesaid areas in accordance with the provisions of the Karnataka Forest Act, 1963 and the rules made thereunder (hereinafter referred to as "the Act" and "the Rules"). On 12-5-1981, the right of collecting the Tupra leaves in Sandur Firka was sold by public auction by respondent No. 4 in which, respondent 5 a sitting member of the Karnataka Legislative Assembly elected from Sandur Constituency of Bellary District, offered the highest bid of Rs. 50,1001- as against the second highest bid of Rs. 50,0001- offered by the petitioner. So far as Hospet Taluk area, respondent 5 had offered the highest bid of Rs. 34,211/- as against the second highest bid of Rs. 31,777/-, offered by the petitioner. Both the offers are subject to confirmation by higher

authorities and they have not been confirmed so far, for which reason, a contract in writing has not been executed.

4. At the time of auction sale and the opening of tenders, the petitioner objected the participation and award of the contract to respondent 5 on the ground that he was a sitting member of the Legislative Assembly. But the authorities declined to accede to the demand made by the petitioner and therefore he has moved this Court on 26-5-1981 for the various reliefs sought in his petition.

5. Sri K. G. Raghavan, learned counsel for the petitioner contends that respondent 5, a sitting member of the Legislative Assembly, is disqualified from entering into any contract by S. 9(A) of the Representation of the People Act, 1951 (hereinafter referred to as "the 1951 Act"), on which ground respondent 4 should not have permitted him to offer his bids, provisionally accept them and recommend for confirmation.

6. Section 9-A of the 1951 Act declares that a person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government. Section 9-A of the Act only fastens a personal liability or disqualification on a person to be a member or continue to be a member. Section 9-A or any other provision of the 1951 Act, does not expressly prohibit a sitting member of a Legislative Assembly from entering into a contract with the State Government. The right to offer bids, purchase forest produce and enter into a contract with Government is in no way regulated or restricted by Section 9-A of the Act and the same can be exercised by a citizen, notwithstanding he is a sitting member of the Legislative Assembly. What consequences will ensue on a sitting M. L. A. thereafter under S. 9-A of the 1951 Act and the provisions of the Constitution, is a matter that does not affect the validity of the transaction entered into by him. So long as a sitting member is not prohibited from entering into a contract and that is legal, an authority or a Court cannot examine the same from the standpoints of morality, propriety or purity of public life highlighted by Sri Raghavan. In this view, I see no merit in the contention of Sri Raghavan and reject the same.

7. Sri Raghavan next contends that the auction-cum-tender sale is in contravention of R. 88 (2) of the Rules. Elaborating his contention, Sri Raghavan maintained that the requisite period of three months before expiry of lease period awarded to him has not expired and therefore the auction-cum-tender sale held by the authorities is invalid.

8. As early as on 4-3-1981, respondent 4 has issued the Notification for disposal of the produce by tender-cum-auction sale. While the existing contract awarded to the petitioner is due to expire on 30-6-1981, the new contract is due to commence only thereafter. In my opinion, the period allowed for the disposal of forest produce is in sufficient compliance with the requirement of R. 88 (2) of the Rules. Assuming there is any violation, the petitioner who is not the highest

bidder and in no way affected and prejudiced, cannot complain the violation of the Rule. For these reasons, there is no merit in this contention of Sri Raghavan and I reject the same.

9. As all the contentions urged by Sri Raghavan fail, this writ petition is liable to be rejected. 1, therefore, reject this writ petition. at the preliminary bearing stage without notice to the respondents.

10. Petition dismissed.