

(1998) 10 AP CK 0016

In the Andhra Pradesh High Court

Case No : Writ Petition No. 22887 of 1998

Y. Srinivasulu Reddy

APPELLANT

Vs

Tirumala Tirupathi Devasthanam, Tirupathi, Chittoor District
and others

RESPONDENT

Date of Decision : 27-10-1998

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : AIR 1999 AP 201 : (1998) 6 ALD 788 : (1998) 6 ALD 78 : (1998) 6 ALT 826

Hon'ble Judges : S.R. Nayak, J

Bench : Single Bench

Advocate : Mr. M. Chandrasekhar Reddy, for the Appellant; Mr. B. Adinarayana Raju, SC for TTD, for the Respondent

Judgement

1. This is another case brought before the Court to show the administration of the Tirumala Tirupathi Devasthanams (TTD) violate not only the law but also flout the writs issued by this Court. The subject matter of this writ petition pertains to the parting of the right of collecting garbage from all the areas of Tirumala township to the dumping yard. Sri B. Adinarayana Raju, learned Standing Counsel for the TTD submitted that the term of earlier contract came to an end in the month of March, 1998. Thereafterwards, a notification was issued in the local news paper "Andhra Jyothi" daily on 26-3-1998 calling for the applications from the eligible persons for awarding the contract of collection of garbage from all the areas of Tirumala township, and the last date for receipt of the tenders was fixed on 10-4-1998. Ten contractors including the petitioner herein participated in the tender proceeding. The tenders were opened on 10-4-1998 at 3-30 p.m. One Mr. M. Subba Reddy quoted the rate at Rs. 88/- per trip and that bid was the lowest one. Therefore the contract was knocked down in favour of the said M. Subba Reddy. The facts stated in the counter reveal that the said Subba Reddy ultimately backed out. Under these circumstances, another tender notification was issued in "Eenadu" and "Vartha" Telgue dailies on

30-5-1998, and 20-6-1998 was fixed as the last date to receive the tenders. In response to this tender notification, four persons including the petitioner submitted their tenders and the bid offered by the petitioner was the lowest. It seems from the counter that even the lowest bid offered by the petitioner was not acceptable to the administration of the TTD, and therefore they resorted to negotiation and invited all the tenderers to participate in the negotiation on 26-6-1998. In the negotiation, the petitioner offered to shift the garbage at the rate of Rs. 225/- per trip and that was found to be the lowest one. However, in pursuance of this, contract was not awarded to the petitioner. On the other hand, the Health Officer of TTD, the third respondent herein, by communication dated 20-7-1998 informed the petitioner that all the tenders opened on 20-6-1998 were rejected. At that stage, the petitioner apprehending that the administration of the TTD was likely to award contract to some third parties, filed the writ petition praying for a writ in the nature of writ of mandamus declaring the action of the respondent in cancelling the tenders opened on 20-6-1998 for transportation of garbage from Tirumala township to dumping yard for the year 1998-99 as illegal and arbitrary and also for setting aside the consequential proceedings issued by the third respondent dated 20-7-1998.

2. Writ petition was presented in this Court on 11-8-1998. Writ petition was posted before the Court for admission on 18-8-1998. My Lord, V. Rajagopala Reddy, J., while issuing notice before admission directed the respondents not to entrust the contract work to others. That interim direction is still in operation. On service of notice, the respondents have filed counter affidavit wherein they have sought for vacation of the ad-interim direction issued by the Court on 18-8-1998.

3. In the counter filed by the respondents, it is stated that after the cancellation of the tenders opened on 20-6-1998, they wanted to conduct third auction but in view of the interim order granted by this Court they could not take further steps in the matter. It is also stated in the counter that when Sri M. Subba Reddy backed out, there was need to make stop-gap arrangement to lift the garbage from the Tirumala township to the garbage dumping yard, and therefore one Sri Y.G. Giribabu was entrusted with that work on his agreeing to shift garbage at the rate of Rs. 138/- per trip with effect from 9-6-1998. It is submitted that even after the receipt of the interim order passed by this Court on 18-8-1998, the said Sri KG. Giribabu is being entrusted with the work of shifting the garbage till date.

4. The facts stated above speak for themselves. The procedure adopted by the administration of the TTD is ex facie illegal and arbitrary. Undoubtedly it is open for the administration of the TTD not to accept the lowest bid offered by the petitioner if that was not acceptable to than in the interest of the TTD. If that was the position, the only course open to the administration was to re-auction the right. The argument of the learned Standing Counsel for TTD is that the administration wanted to pursue such a course but the interim order made by this Court on 18-8-1998 came in the way. This is totally unjustified alibi to flout the order of the Court. The interim order passed by this Court on 18-8-1998 docs

not direct the administration of the TTD not to auction the right. The Court only directed the administration not to entrust the work to third parties. This direction is apparently flouted by the administration by continuing to entrust the work of shifting the garbage to Sri KG. Giribabu. Ex facie, the interim writ is disobeyed. The only defence put forth by the learned Standing Counsel for the respondent TTD is that they had sought for vacation of the interim order in the counter-affidavit filed by them. It is quite often reiterated by this Court and by the Supreme Court that the writs issued by the Constitutional Courts, whether interim or final, should run and should not run away, and the writ cannot be stalled or thwarted by any one else except the "Court above" or the Court which has passed the order. If there was any practical difficulty for the administration of the TTD in obeying the interim direction of this Court, in all fairness, it should have moved an application before the same Judge who has passed the order and sought modification or vacation of the order. It is not permissible to flout the order on the ground of practical difficulties.

5. The TTD is a "State" within the meaning of Article 12 of the Constitution of India, and when it proceeds to part with its largesse, openness and transparency should be practised, and the well-accepted ordinary mode of disposal of the rights is by way of public auction. The TTD cannot in law clandestinely or secretly or privately enter into contract with an individual without resorting to the lawful procedure. Entrusting the work of shifting garbage to Sri K G. Giri Babu on the face of it is illegal and against the settled legal position in law. At this stage itself, it may be relevant to point out that Sri KG. Giri Babu was not one of the tenderers either in the auction conducted in the month of April, 1998 or in the month of June, 1998.

6. In the result, writ petition is allowed. A direction shall issue to the respondents to take immediate steps to conduct auction for awarding the contract for transportation of the garbage from Tirumala township to the dumping yard for the year 1998-99, The petitioner and all other eligible persons are entitled to participate in such auction. This direction shall be carried out within a period of two weeks from the date of receipt of a copy of this order. Copy of the order be despatched to the Respondents forthwith. No costs.

7. Since there seems to be, prima facie, violation of the interim writ dated 18-8-1998 by the respondents, the Registry may place the writ petition papers before my Lord, V. Rajagopala Reddy, J., for His Lordship's kind notice after obtaining necessary orders from the Hon"ble The Chief Justice in that regard.