

Kumar Vs. State of Kerala

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Court : Kerala

Decided On : Nov-08-2013

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON FRIDAY, THE 8TH DAY OF NOVEMBER 2013 17TH KARTHIKA, 1935 WP(C).No. 24507 of 2013 (K)

----- PETITIONER:-: ----- KUMAR, AGED 50 YEARS, BABY MANTHIRAM, AAYIRUMTHENGU, ALLUMPEDIKA P.O. OCHIRA. BY ADVS.SRI.A.N.RAJAN BABU SRI.P.GOPALAKRISHNAN (MVA) SRI.A.R.EASWAR LAL RESPONDENTS:-: ----- 1. STATE OF KERALA REPRESENTED BY THE SECRETARY FISHERIES AND PORTS DEPARTMENT GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM - 695 001.

2. CHIEF ENGINEER, HARBOUR ENGINEERING DEPARTMENT TRIVANDRUM - 695 001.

3. SUPERINTENENT OF ENGINEERING, HARBOUR ENGINEERING, ERNAKULAM - 682 001.

4. EXECUTIVE ENGINEER, HARBOUR ENGINEERING DIVISION, ALAPPUZHA - 688 001. R1 BY ADV. GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/11/2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 24507 of 2013 (K)

-----	APPENDIX	PETITIONER(S)'	EXHIBITS
-----	EXHIBIT P1.	TRUE EXTRACT COPY OF G.O.(ORDINARY) NO.303/2000/MISC. DATED 17/07/2000 ISSUED BY THE FISHERIES HARBOUR (B) DEPARTMENT.	EXHIBIT P1(A). TRUE COPY OF THE G.O.(ORDI) NO.285/2001/MISC. DATED 17/07/2001 ISSUED BY THE FISHERIES HARBOUR (B) DEPARTMENT.
	EXHIBIT P2.	TRUE COPY OF AGREEMENT NO.4/12-13/EE/HE.DN.(A) DATED 23/06/2012 EXECUTED BETWEEN THE EXECUTIVE ENGINEER, HARBOUR ENGINEERING DIVISION AND CONNECTED PAPERS.	EXHIBIT P2(A). TRUE COPY OF AGREEMENT NO.5/12-13/EE/H.E.DN.(A) DATED 23/06/2012 EXECUTED BETWEEN THE EXECUTIVE ENGINEER, HARBOUR ENGINEERING DIVISION AND CONNECTED PAPERS.
	EXHIBIT P3.	TRUE COPY OF SELECTION NOTICE NO.9.EI-719/E.E.H.E.DN. (A) DATED 18/06/2012 EXECUTIVE ENGINEER, HARBOUR ENGINEERING DIVISION.	EXHIBIT P4. TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE EXECUTIVE ENGINEER, HARBOUR ENGINEERING SUB DIVISION.
	EXHIBIT P4(A).	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE EXECUTIVE ENGINEER, HARBOUR ENGINEERING SUB DIVISION.	EXHIBIT P5. TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE EXECUTIVE ENGINEER, HARBOUR ENGINEERING SUB DIVISION.
	EXHIBIT P5(A).	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE EXECUTIVE ENGINEER, HARBOUR ENGINEERING SUB DIVISION.	EXHIBIT P5(B). TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE EXECUTIVE ENGINEER, HARBOUR ENGINEERING SUB DIVISION.
	EXHIBIT P6.	TRUE COPY OF G.O.NO.E1-719/EE/RHEDN(A) DATED 23/06/2013 ISSUED BY THE EXECUTIVE ENGINEER, HARBOUR ENGINEERING DIVISION.	EXHIBIT P7. TRUE COPY OF SUPPLEMENTAL AGREEMENT DATED 01/07/2013 TO THE ORIGINAL AGREEMENT NO.05/2012-13/EE/HE.DN.

(A) DATED2306.2012 FOR TIME OF EXTENSION FOR THE WORK. -2-WP(C).No. 24507 of 2013 (K) EXHIBIT P8. TRUE COPY OF SUPPLEMENTAL AGREEMENT DATED2408.2013 TO THE ORIGINAL AGREEMENT NO.05/2012-13/EE/HE.DN. (A) DATED2306.2012 FOR TIME OF EXTENSION FOR THE WORK. EXHIBIT P9. TRUE COPY OF TENDER NO.7/13-14/EE/HEDN(A) DATED0509.2013 ISSUED BY THE HARBOUR ENGINEERING DEPARTMENT. EXHIBIT P10. TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE HON. MINISTER FOR FISHERIES DATED2806.2013. RESPONDENT(S)' EXHIBITS: NIL //TRUE COPY// P.A. TO JUDGE. dlk P.R. RAMACHANDRA MENON, J.

===== W.P.(C). No. 24507 of 2013
----- Dated this the 8th day of November, 2013

JUDGMENT

The petitioner is running two ice crusher units in Kayamkulam Azheeka, Karaunagpally Fishing Harbour. It is stated that the tenure of the licence given to the petitioner is over and the petitioner has approached the concerned respondent/4th respondent by filing representations, agreeing to enhance the existing rate by 15% so as to enable him to continue to run the unit and to renew the lease accordingly. Without any regard to the said representations, the 4th respondent proceeded with steps for inviting tender vide Ext.P9, which made the petitioner to approach this Court, challenging the course and proceedings.

2. When the matter came up for consideration before this Court, it was submitted on behalf of the petitioner that the petitioner was singled out and it was accordingly, that finalisation of the tender pursuant to Ext.P9 was ordered to be subject to further orders.

3. A detailed statement has been filed from the part of the 4th respondent, explaining the facts and figures. It is stated that W.P.C. No.24507 of 2013 -2- the petitioner came to be permitted to run the unit pursuant to earlier tender proceedings, whereby, he was declared as the successful bidder, having quoted 1,11,000/- for the first unit and 90,000/- in respect of the second unit. The tenure was only for a period of 12 months from the date on which the Units were handed

over to the contractor i.e., on 06.07.2012 and the period for one year expired on 05.07.2013. The licence arrangement was subsequently extended for a period of 90 days by virtue of the enabling provisions and it is pointed out that the maximum extension that can be given is only for a period of 90 days.

4. It is brought out that, pursuant to Ext.P9 tender, two persons had quoted for the 1st Unit and one Mr. Philipose turned to be the highest bidder, whose offer was for 3,02,007/-, while in respect of the 2nd Unit, two persons had quoted and the amount quoted by one Sulekha. R, turned to be the highest one, having quoted 2,50,000/-. It is stated that the petitioner did not participate in the tender proceedings.

5. After hearing the learned counsel for the petitioner and the learned Government Pleader for the respondents, this Court W.P.C. No.24507 of 2013 -3- finds that there is absolutely no merit or bonafides in the writ petition and the rights and liberties of the respondent to have the Units allotted to the highest bidders in tender is not liable to be intercepted by this Court. There is no case for the petitioner that, the petitioner had submitted any tender and/or that he was prevented from participating in the tender. In the said circumstance, interference is declined and the writ petition is dismissed accordingly, as devoid of any merit. P.R. RAMACHANDRA MENON, JUDGE. kp/-

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