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Court : Chennai

Decided On : Aug-03-2005

Reported in : (2005)4MLJ208

Judge : Markandey Katju, C.J. and ;F.M. Ibrahim Kalifulla, J.

Appeal No. : Writ Appeal No. 1498 of 2005

Appellant : A. Gopal

Respondent : Airports Authority of India, International Airports Division, Rep. by the Airport Director and Assis

Advocate for Def. : Vijaynarayan, Sr. Counsel for ;Narmada Sampath, Adv.

Advocate for Pet/Ap. : V. Raghavachari, Adv. for ;M. Murali, Adv.

Disposition : Appeal dismissed

Judgement :

Markandey Katju, C.J.

1. This writ appeal has been filed against the impugned order of the learned single Judge dated 18.7.2005 passed in Writ Petition No. 22940 of 2005.

2. We have heard the learned counsel for the parties and perused the record and find no merit in this appeal.

3. The petitioner/appellant challenged Clause 3 in a tender condition imposed by the first respondent in the notice inviting tenders published on 24.6.2005 in the Newspaper 'Dhinanthanthi'. The contract in question was for management of Car Park services at Kamaraj Domestic Terminal and Anna International Terminal at Chennai Airport.

4. Clause 3 of the aforesaid notice states:

' The parties fulfilling the following criteria are eligible to participate in the Tenders:-

Parties having 2 years experience of managing a Car Park with Govt. Departments/Public Sector/ 5 & 4 Star Hotel/Hospital/Municipal Corporation /Airport/Sea Port/Railways/Bus Terminals.

Having minimum Annual Turnover of Rs. 4.44 Crores (Rupees Four Crores and forty four lakhs only).'

5. In our opinion, the facts of the case are covered by the decision of the Supreme Court in Directorate of Education and Ors. v. Educomp Datamatics Ltd., : AIR 2004 SC1962 .

6. As regards the requirement of having two years experience of managing a Car Park with Government Departments etc., in our opinion, this is a reasonable condition because obviously what the respondents required was, an experienced person and there is nothing unreasonable about making this as an eligibility criteria. Learned counsel for the appellant submitted that the requirement of having a minimum turnover of Rs. 4.44 crores was arbitrary and hence illegal. We do not agree. In the aforesaid decision of the Supreme Court, there was a requirement in the tender conditions that only those having turn over of more than Rs. 20 crores can bid. In paragraph 13 of the aforesaid decision the Supreme Court observed that this criterion was imposed so that only companies having financial stability and capacity should participate in the tender. In our opinion, the same situation is present in the present case. A perusal of the notice inviting tenders shows that the

Minimum Reserved Licence Fee is Rs. 37 lakhs per month. Hence the successful tenderer has to pay Minimum Reserved Licence Fee of Rs. 37 lakhs per month which works out to Rs. 4.44 crores per year. In our opinion, there was hence nothing unreasonable in making a requirement that the person bidding should have a minimum turn over of Rs. 4.44 crores.

7. These are all basically administrative and policy decisions and it is not for this Court to sit in appeal over such decisions vide *Tata Cellular v. Union of India*, : AIR 1996 SC11 . It has been held repeatedly by the Supreme Court that this Court cannot interfere with administrative and policy decisions unless there is violation of the statute or it is shockingly arbitrary in the *Wednesbury* sense vide *Tamil Nadu Electricity Board v. Tamil Nadu Electricity Board Engineers Association* 2005 (1) MLJ 507 in which the aforesaid decisions are referred to in detail. In our opinion, there is no violation of any statute nor can it be said that the tender condition was shockingly arbitrary. The Court must exercise judicial restraint in such matters vide *Rama Muthuramalingam v. Deputy Superintendent of Police*, : AIR2005 Mad1 . There is no force in this appeal. The writ appeal is dismissed. No costs. W.A.M.P.Nos. 2777 and 2778 of 2005 are dismissed.

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