

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI**WRIT PETITION NO.7077 OF 2023****ORDER:**

The grievance of the writ petitioner in the writ petition is that the authorities have cancelled the tender and thereby not allowing the petitioner to commence the ground booking of tickets work vide proceeding No.E4/122 (1)/23-DPTO-KNL, dated 03.03.2023.

2. Heard Sri S.M.Subhan, learned counsel for the petitioner and Sri K.Vishwanatham, learned standing counsel for APSRTC.

3. Learned counsel for the petitioner in elaboration contended that the authorities have issued the impugned proceedings, dated 03.03.2023 and the reasons mentioned therein are not at all sufficient to cancel the petitioner's tender. In the said proceedings, they have stated that the petitioner is not having ESI and Labour license etc., in fact the petitioner is having the ESI and Labour license. Hence, the present writ petition is filed seeking to set aside the impugned proceedings.

4. Learned standing counsel for the respondents submitted that the grievance of the petitioner cannot be adjudicated by this Court under Article 226 of Constitution of India. The Hon'ble Apex Court time and again has categorically held that the Court cannot interfere in the

tender evaluation process. He further submitted that, in fact the petitioner did not even sign the tender document but mistakenly, the same was not referred or stated in the impugned proceeding, even otherwise, the tender was already allotted to third party even by the date of passing of interim order by this Court. As such, at this stage, interference of this Court will affect the rights of the third party. Accordingly, prayed for dismissal of the writ petition.

5. On the other hand, learned counsel for the petitioner in reply submitted that the impugned proceeding is unsustainable, denying the petitioner from participating from the tender is nothing but violation of Article 19 (1)(g) guaranteed under the Constitution and this Court can always entertain the writ petition and prayed to pass appropriate orders.

6. A perusal of the record shows that, the petitioner has submitted a tender pursuant to the notification issued by the respondent-Corporation but the same was rejected vide proceedings dated 03.03.2023 on the ground that the petitioner is not having ESI and Labour license. However, tenders have already been accepted and it has been allotted to some third party.

7. Even otherwise, the contract was already concluded in favour of some third party by the time interim orders were passed. Time and

again, the Constitution Courts have categorically held that the Courts cannot entertain writs questioning the tender evaluation process unless the same suffers from patent arbitrariness.

8. There are no valid grounds raised or urged before this Court warranting interference of this Hon'ble Court in the present writ petition as such, this Court is not inclined to consider the petitioner's case and the writ petition is liable to be dismissed.

9. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous applications, pending, if any, shall also stand closed.

JUSTICE RAVI CHEEMALAPATI

June 23rd, 2023
P K R

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C-109

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