

[3209]

**IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI
(Special Original Jurisdiction)**

**THURSDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

:PRESENT:

**THE HONOURABLE SRI JUSTICE NINALA JAYASURYA
WRIT PETITION NO: 33352 OF 2023**



Between:

M/s Deccan Electricals Pvt. Ltd., Having its registered office at 301 Apurupa PCH, 8-2-293A/A1, Road No.2 Banjara Hills, Hyderabad-500034 Represented by its Managing Director Ml'. Narendra Agarwal.

Petitioner

AND

1. The State of Andhra Pradesh, Represented by its Principal Secretary, Department of Energy, Secretariat, Velagapudi, Guntur District.
2. Andhra Pradesh Southern Power Distribution Company Limited, Having its office at 9-13-65/A Srinivasapuram, Tiruchanoor Road, Tirupati - 517 503 Represented by its CMD
3. The Chief General Manager (P and MM), Andhra Pradesh Southern Power Distribution Company Limited, 9-13-65/A, Srinivasapuram, Tiruchanoor Road, Tirupati - 517 503

Respondents

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to grant a writ, order or direction more particularly on in the nature of a Writ of Mandamus declaring the action of the respondents in wrong fully and strategically removing the Pre-requisite qualification clause in the tender document thereby favouring a particular tenderer, the action of which is illegal, arbitrary and in violation of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to strictly adhere to the pre requisite qualification notified vide clause No.8.1 in Tender Notice No. 1/2.3-24, dated 02-05-2023.

IA NO: 1 OF 2023

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents to stay all further proceedings in relation to Tender Notice No. 1/23-24 dated 02-05-2023 calling for tenders relating to supply of 20,000 nos. of 33KV Polymer PIN Insulators with GI PIN on e-procurement basis issued by the 2nd respondent, including opening financial bids, conducting further negotiations and award of the tender to the other tender, issuance of letter of Acceptance, execution of the agreements etc., pending disposal of W.P.No.33352 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of M/s.Indus Law Firm Advocate for the Petitioner, GP for Energy for Respondent No.1 and

Sri.V.R.Reddy Kovvuri, Standing Counsel for Respondent Nos.2 & 3, the Court made the following.

ORDER:

Heard the elaborate submissions made by the learned counsel for the petitioner with reference to exhibit Nos. P2, P3, P7, etc.

It is the main contention of the petitioner's counsel that, though in respect of 33KV Polymer Pin Insulators, almost all the Power Distribution companies, including the A.P. Eastern Power Distribution Company Ltd., is prescribing the design test, respondent No.2 which is the similarly situated company, issued impugned Tender Notification dated 02.05.2023, wherein deleted the design test in the interest of some third parties.

He further submits that if the tenders are finalised under the above-mentioned facts and circumstances, it would result in irreparable loss, not only to the petitioner, but also to the public exchequer.

Learned Standing Counsel on the other side, while opposing the said submissions, contends that the petitioner, having participated in the tender process, cannot challenge the tender notification. He further submits that it is for respondent No.2 to indicate the terms and conditions as per its requirements, and the petitioner cannot question the same.

Opposing the granting of an interim order, learned Standing Counsel seeks short time for filing the counter.

Considering the submissions made by the learned counsel for the petitioner and on perusal of the material on record on which reliance is placed, this Court prima facie satisfied that a case is made out for granting interim order.

Therefore, there shall be an interim direction to the respondents not to finalize the financial bids for a period of four (04) weeks.

List the matter on 22.01.2024, along with W.P.Nos.25919, 27652 and 32356 of 2023.

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Fol

Sd/- S. SRINIVASA PRASAD
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary, Department of Energy, State of Andhra Pradesh, Secretariat, Velagapudi, Guntur District.
2. The Chairman & Managing Director, Andhra Pradesh Southern Power Distribution Company Limited, Having its office at 9-13-65/A Srinivasapuram, Tiruchanoor Road, Tirupati - 517 503.
3. The Chief General Manager (P & MM), Andhra Pradesh Southern Power Distribution Company Limited, 9-13-65/A, Srinivasapuram, Tiruchanoor Road, Tirupati - 517 503 (1 to 3 by RPAD)
4. One CC to M/s.Indus Law Firm Advocate [OPUC]
5. Two CCs to GP for Energy, High Court of Andhra Pradesh. [OUT]
6. One CC to Sri.V.R.Reddy Kovvuri, Standing Counsel (OPUC)
7. One spare copy

SRL

HIGH COURT

NJSJ

DATED:28/12/2023

**NOTE: LIST THE MATTER ON 22.01.2024, ALONG WITH W.P.NoS.25919, 27652
AND 32356 OF 2023**

ORDER

WP.No.33352 of 2023

INTERIM DIRECTION

