



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 27TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE B M SHYAM PRASAD
WRIT PETITION NO. 6665 OF 2026 (GM-TEN)

BETWEEN:

M/S DIVA AND RESOURCES
(RAICHUR) PVT LTD.,
A COMPANY REGD. UNDER
THE COMPANIES ACT, 1956
158/2, MAHARUDHRESHWARA NAGAR
3RD BLOCK, KEMPAPURA ROAD
BENGALURU 560 090.
REPRESENTED BY ITS
MANAGING DIRECTOR
MR. SUMATI BHANDARI.

...PETITIONER

(BY SRI ABHINAY. S., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF COMMERCE
AND INDUSTRIES
M.S. BUILDING,
DR. B.R. AMBEDKAR VEEDHI,
BENGALURU 560 001
REPRESENTED BY ITS SECRETARY
2. THE HUTTI GOLD MINES COMPANY LIMITED
A COMPANY REGISTERED UNDER
THE PROVISIONS OF THE
COMPANIES ACT, 1956





HAVING ITS REGISTERED OFFICE
AT 3RD FLOOR, KHB SHOPPING
COMPLEX, NATIONAL GAMES VILLAGE,
KORAMANGALA, BENGALURU-560047
REPRESENTED BY
ITS MANAGING DIRECTOR.

3. I/C DEPUTY GENERAL MANAGER
(MATERIALS)
THE HUTTI GOLD MINES
COMPANY LIMITED,
HUTTI, LINGASUGUR TALUK,
RAICHUR 584115.

...RESPONDENTS

(BY SRI B. RAVINDRANATH AGA FOR R1;
SRI A. MAHESH CHOWDHARY, ADVOCATE FOR
R2 AND R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA PRAYING TO 1. ISSUE
A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE
WRIT/ORDER QUASHING CLAUSE 36(1) (SPECIAL
CONDITIONS OF THE CONTRACT) CONTAINED IN
TENDER NOTIFICATION DATED 05.02.2026 BEARING
NO. 33/25-26 IN SO FAR AS THE FOR THE
PROCUREMENT OF 125 MM FORGED STEEL GRINDING
MEDIA BALLS BEARING REFERENCE NUMBER-
HGML/2024-25/IND0313/CALL-2) AND 65 MM FORGED
STEEL GRINDING MEDIA BALLS (BEARING REFERENCE
NUMBER- HGML/2024-25/IND0313/CALL-2) ISSUED
BY RESPONDENT NO.1, AS ARBITRARY AND IN
CONTRAVENTION TO THE PROVISIONS OF THE
KARNATAKA TRANSPARENCY IN PUBLIC
PROCUREMENTS ACT, 1999 (VIDE ANNEXURE-J AND
J1) IN SO FAR PETITIONER; QUASHING CLAUSE 36(4)
(SPECIAL CONDITIONS OF THE CONTRACT) CONTAINED



IN TENDER NOTIFICATION DATED 05.02.2026 BEARING NO. 33/25-26 IN SO FAR AS THE FOR THE PROCUREMENT OF 125 MM FORGED STEEL GRINDING MEDIA BALLS NUMBER- (BEARING REFERENCE HGML/2024-25/IND0314/CALL-2) AND 65 MM FORGED STEEL GRINDING MEDIA BALLS (BEARING REFERENCE NUMBER- HGML/2024-25/IND0313 CALL 2) ISSUED BY RESPONDENT NO.1, AS ARBITRARY AND IN CONTRAVENTION TO THE PROVISIONS OF THE KARNATAKA TRANSPARENCY IN PUBLIC PROCUREMENTS ACT, 1999. (VIDE ANNEXURE-J AND J1) IN SO FAR PETITIONERS; III. ISSUE A WRIT OF MANDAMUS DIRECTING RESPONDENT NO.1 TO ENSURE THAT A FAIR OPPORTUNITY IS AFFORDED TO THE PETITIONER TO PARTICIPATE IN THE TENDER PROCESS PURSUANT TO TENDER NOTIFICATION DATED 05.02.2026 BEARING NO. 33/25-26 IN SO FAR AS THE FOR THE PROCUREMENT OF 125 MM FORGED STEEL GRINDING MEDIA BALLS (BEARING REFERENCE NUMBER- HGML/2024-25/IND0314/CALL-2) AND 65 MM FORGED STEEL GRINDING MEDIA (BEARING REFERENCE NUMBER- HGML/2024-25/IND0313 CALL-2), INCLUDING ACCEPTANCE OF THE PETITIONERS BLD AND CONSIDERATION THEREOF ON MERITS, WITHOUT REFERENCE TO THE IMPUGNED CLAUSE 36. (VIDE ANNEXURE-B).

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner has sought for quashing of Clause No. 36[1] in the Tender Notification dated 05.02.2026 [Annexure-J] contending that this Clause



is arbitrary and in contravention of the provisions of the Karnataka Transparency in Public Procurements Act, 1999. Sri Abhinay S, the learned counsel for the petitioner, while inviting this Court's attention to the interim order granted by this Court on 07.08.2025 in the writ petition in W.P. No.20387/2025 and the further proceedings in such petition, submits the following.

[A] The petitioner is aggrieved by its exclusion from participating in the tender process because it had approached this Court in W.P. No.20387/2025 on an earlier occasion for a similar supply.

[B] This Court in the writ petition in W.P. No.20387/2025 has granted an interim order directing the respondents not to issue a Work Order without the leave of this Court.



[C] It is possible that in terms of the statement made before this Court in such writ petition on 19.09.2025 that such Notification is withdrawn.

2. Sri Abhinay S emphasizes that the respondents cannot exclude a person from participating in the tender notification only because such person has availed legal remedy. Sri B Ravindranath, a learned Additional Government Advocate, who accepts notice for the first respondent, placing on record a copy of the order of the State Government dated 21.02.2026, submits that the impugned Notification is also withdrawn.

3. This Court, from the order dated 21.02.2026 in this case, can discern that the Notification could be withdrawn but on grounds that are different because the first respondent has stipulated that no new procurement process must be initiated until the external *Technical Evaluation*



Committee completes its study and submits a Report for the benefit of the company. Sri A Mahesh Chowdhary, the learned counsel who is permitted to take notice for the second and third respondents, is heard on *whether the second and third respondents could indeed stipulate that bids submitted by the bidders who are in dispute with the respondents as of the last date of the submission shall be rejected.*

4. This Court is of the opinion that the stipulation that the bids by the bidders who are in dispute as of the last date of the submission cannot be sustained and that there must be a declaration to that effect *lest* there is a recurrence of this clause in the next tender notifications giving room to further proceedings on the same score. The petitioner is also aggrieved by another term which relates to the right to reject because of deficiency in supply, but this Court is not engaged on this question in the present



proceedings as it is a matter to be found out factually
in a given set of circumstances. Hence, the following:

ORDER

The petition stands disposed of declaring that
it shall not be open to the respondents to
stipulate that the bids by those bidders who
have availed their legal remedy will be rejected
on that score.

Sd/-
(B M SHYAM PRASAD)
JUDGE

AN/-