

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF DECEMBER, 2018

PRESENT

THE HON'BLE MR. JUSTICE B.VEERAPPA

AND

THE HON'BLE MR. JUSTICE K.NATARAJAN

W.P.NOS.58036-37 OF 2018 (GM-MM-S)

Between:

Ramanna S. Shastri,
Aged about 57 years,
S/o. Shankarappa Shastri,
Occupation: Civil Contractor,
R/o. Sadananda Colony,
Jamkhandi,
District: Bagalkot – 587 301. ... Petitioner

(By Sri Deepak S. Sarangmath, Adv.)

And:

1. State of Karnataka,
By its Secretary,
Department of Mines and Geology,
Khanija Bhavan, Race Course Road,
Bengaluru – 560 001.
2. The Deputy Director,
Department of Mines and Gology,
(District Sand Committee),
Navanagar,
Bagalkot – 587 101.

3. The Deputy Commissioner,
(District Sand Committee),
Navanagar,
Bagalkot – 587 101.
4. The Executive Engineer,
Public Works Department,
Navanagar,
Bagalkot – 587 101.
5. The Assistant Commissioner,
Jamkhandi Sub Division,
Jamkhandi,
Dist: Bagalkot – 587 301.
6. The Tashildar,
Jamakhandi Taluka,
Jamkhandi,
Dist: Bagalkot – 587 301.
7. The Tashildar,
Bilagi Taluka,
Bilagi,
District: Bagalkot – 587 116. ... Respondents

(By Sri S.V. Giri Kumar, AGA)

These Writ Petitions are filed under Articles 226 and 227 of the Constitution of India praying to quash the impugned order/minutes of the meeting dated 30.05.2018 passed by the R-2, 4 to 7 vide Annexures-A and B in so far as it relates the rejection of the application filed by the petitioner and etc.

These Writ Petitions coming on for **Preliminary Hearing in 'B' group** this day, B. Veerappa J., made the following:

ORDER

The petitioner has filed the present writ petitions for writ of certiorari to quash the minutes of the meeting dated 30.05.2018 passed by respondents No.2 and 4 to 7 vide Annexures-A and B in so far as it relates to rejection of the application filed by the petitioner and directing the respondents No.2 and 4 to 7 to accept the application filed by the petitioner and to permit the petitioner to participate in the tender-cum-auction process in respect of allotment of Sand Block No.8 of Kadakol Village notified as per the notification dated 18.05.2017 vide Annexure-C.

2. It is the case of the petitioner that respondent No.2 issued notification dated 18.05.2017 calling for applications for Pre-Qualification Tender for allotment/lease of various sand blocks in Jamakhandi and Bilagi Taluks for mining sand. The Kadkol Sand Block was also identified as Sand Block No.8 reserved for schedule caste category and the petitioner being eligible, filed application along

with necessary documents. The Tender-cum-Auction document issued by respondent No.3 specifies that the applicants' inter-alia are required to produce copy of PAN card and/or TIN certificate. The petitioner had submitted his PAN card.

3. It is further case of the petitioner that the petitioner/applicant had applied for Pre-Qualification Tender for participating in the e-tender for allotment of sand blocks in Jamakhandi and Bilagi Taluks which was rejected by the Scrutiny Committee on the ground that the petitioner has not submitted the VAT certificate along with his application for Pre-Qualification tender although it was never specified that the VAT certificate has to be produced. Therefore, the petitioner is before this Court for the relief sought for.

4. At the inception, the petitioner filed W.P.No.108646-647/2018 GM(TEN) before High Court of Karnataka, Dharwad Bench, Dharwad which was dismissed as withdrawn on 20.12.2018 due to

filing under wrong classification of the writ petition as GM(TEN). Therefore, the preset writ Petitions are filed.

5. We have heard learned counsel for the parties to lis.

6. Sri Deepak S. Sarangmath, learned counsel for the petitioner vehemently contended that the petitioner belongs to Schedule caste category and fulfills all the conditions specified in the notification dated 18.05.2017. Tender-cum-Auction document for disposal of ordinary sand blocks dated 24.06.2017 was also issued by respondent No.3. The rejection of the application on the ground that he has not produced VAT/PAN/TIN certificate is illegal and same is liable to be quashed. He further contended that the Tender-cum-Auction document for disposal of ordinary sand blocks dated 24.06.2017 specifies that the applicants are required to produce 'Copy of PAN card and/or TIN No' along with application at Annexure-D which indicates that

his application has been rejected due to non submission of VAT certificate which was never asked to be produced as per the Tender-cum-Auction document for disposal of ordinary sand blocks dated 24.06.2017. The Scrutiny Committee has rejected the application of the petitioner on the ground that he has not produced the VAT certificate.

7. He further contended that the production of PAN card by the petitioner is also not forthcoming from the website of the Department of Mines and Geology. The rejection of the application by the authority is without any justification. Therefore, he sought to quash the impugned order at Annexures-A and B only in so far as the petitioner is concerned in respect of sand block No.8 by allowing the present writ petitions and directing the respondents to permit the petitioner to participate in Tender-cum-Auction process.

8. Per contra Sri S.V. Giri Kumar, learned AGA for respondents sought to justify the impugned

action of the respondents as per Annexures-A and B and specifically pointed out that as per clause 7.1 of the Tender-cum-Auction document, copy of the PAN card and TIN number is necessary. Even on the last date of filing of the application on 15.07.2017, the petitioner has not produced the required documents, but Annexure-F is produced before this Court dated 13.12.2018 which cannot be considered. Therefore, he sought to dismiss the writ petitions filed by the petitioner.

9. Having heard the learned counsel for the parties, it is not in dispute that respondent No.2 issued notification dated 18.05.2017 calling for the application for Pre-Qualification of Tender for allotment/lease of various sand blocks in Jamakhandi and Bilagi Taluks for mining sand. In response to the same, the petitioner applied in respect of Kadakol sand block which was identified and reserved for schedule caste category. As the petitioner belongs to same category, he has filed the

application and produced all the documents. Respondent No.2 considering the application, rejected the Pre-Qualification Tender of the petitioner on the ground that he has not produced either VAT/PAN/TIN certificate.

10. Tender-cum-Auction document for disposal of ordinary sand blocks of Krishna river beds of Bagalkot District specifies the eligibility criteria under clause 2(c) that the tenderer should have a valid PAN and/or TIN number and at clause 7.1, the tenderer shall submit the following documents at serial number 'i to v'. One of the document required to be produced was SI.No.5 which is a copy of PAN/VAT/TIN number. Though learned counsel for the petitioner tried to persuaded that as per Annexure-F dated 13.12.2018 he has produced PAN card i.e., after the last date fixed in Annexure-C of tender notification on 15.07.2017. Considering non production of PAN/TIN certificate, respondent No.2 by order dated 13.12.2018 rejected the pre-

Qualification tender of the petitioner. Admittedly, the petitioner has not challenged the tender documents imposing tender conditions before this Court. When the tender documents specifies that the bidders should have produced a valid TIN/PAN number as on the last date of application filed, the document as per Annexure-F produced before this Court for the first time cannot be considered as qualified and same is beyond the last date fixed in the e-Tender notification. On that ground alone, the writ petitions are liable to be dismissed.

11. In so far as maintainability of the present writ petitions, when the petitioner has already filed earlier writ petitions before Single Bench of Dharwad High Court in W.P.No.108646-647/2018, at para 12 of the present writ petitions, it is stated that the writ petitions came to be dismissed as withdrawn as per Annexure-K, but the petitioner has not produced any document to show that it was dismissed as withdrawn with liberty to file fresh writ petition.

Even on the said ground also, the present writ petitions are liable to be dismissed.

12. In view of the above, the petitioner has not made out any ground to interfere with the impugned order passed by the authorities in exercise of the power under Articles 226 and 227 of Constitution of India.

Accordingly, the writ petitions are ***dismissed***.

Sd/-
JUDGE

Sd/-
JUDGE

PN/-