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APHC010039572025

**IN THE HIGH COURT OF ANDHRA PRADESH**
**AT AMARAVATI [3330]**
**(Special Original Jurisdiction)**

FRIDAY, THE NINETEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO**

**WRIT PETITION No. 2237/2025**

**BETWEEN:**

1. INDUKURI VENKATA RAMA RAJU, S/o. SIVA RAMA RAJU, AGED 47 YEARS, PERMANENT RESIDENT OF AVIDI VILLAGE, KOTHAPETA MANDALAM, EAST GODAVARI DISTRICT R/o. DOOR NO 7-260/3, JAYALAKSHMI NILAYAM, M.VENKAIAH ROAD, SIRI CHAITANYA MAIN CAMPUS, 100 FEET ROAD, KANURU, KRISHNA DISTRICT, ANDHRA PRADESH- 520007. **.....PETITIONER**

**AND**

1. THE STATE OF AP, REP. BY ITS PRINCIPAL SECRETARY(REVENUE ENDOWMENTS) SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI, GUNTUR- 522237.
2. THE COMMISSIONER OF ENDOWMENTS, ENDOWMENTS DEPARTMENT, GOLLAPUDI, VIJAYAWADA,NTR DISTRICT.
3. SRI DURGA MALLESWARA SWAMY VARLA DEVASTHANAM, REP. BY ITS EXECUTIVE OFFICER,VIJAYAWADA, NTR DISTRICT.
4. SAI MANIKANTA AGENCIES, GROUND FLOOR, 4-68 MAIN ROAD, KROSURU, GUNTUR, A.P. REP. BY ITS PARTNER MURALI MOHAN CHALUVADI.

**...RESPONDENT(S):**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a direction or order, more particularly, one in the nature of writ of Mandamus, to i. declare the action of Respondents, especially Respondent No. 3 in not blacklisting Respondent No. 4 firm from participating in tenders as per tender conditions as illegal, improper, unjust and contrary to law ii. declare the action of Respondents, especially Respondent No. 3 in not forfeiting EMD amount and not recovering the differential amount incurred due to the withdrawal of tender as per tender condition as illegal iii. also direct the authorities to initiate action against officials concerned found to be complicit or negligent in monitoring tender process including criminal action iv) and pass such other order or orders.

**Counsel for the Petitioner:**

1. BHARAT BABU.N

**Counsel for the Respondent(S):**

1. KAPPERA KOTESWARA RAO SC for Endowments, AP Region.
2. GP FOR ENDOWMENTS

**The Court made the following:**

**ORDER:**

The present writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus or any direction to grant the following reliefs:

1. to declare the action of Respondents, especially Respondent No.3 in not blacklisting Respondent No.4 firm from participating in tenders as per tender conditions as illegal, improper, unjust and contrary to law;
2. to declare the action of Respondents, especially Respondent No.3 in not forfeiting EMD amount and not recovering the differential amount incurred due to the withdrawal of tender as per tender condition as illegal;
3. also to direct the authorities to initiate action against officials concerned found to be complicit or negligent in monitoring tender process including criminal action.

2. The 3rd respondent issued notification inviting tenders vide notification No.H1279/2018 Part-01 with Tender I.D. No.207588 for procurement of provisions for a period of six months commencing from 01.10.2018 to 31.03.2019. The eligibility criteria to participate in the tender have been mentioned at Sl.No.21 of the NIT.

3. Tender Condition No.11 is extracted hereunder:

*"If the approved tenderer failed to supply the required provisions within the time to Devasthanam has reserved the right to procure provisions from the other tenderers or to purchase in the open*

*market. The financial loss caused in this process will be recovered from the defaulted tenderer apart from cancelling his tender.*

4. Tender Condition No.29 is extracted hereunder:

*"For breach of any of the above tender conditions, the tender Deposit is liable to be forfeited in favour of the Devasthanam duly blacklisting the firm. Further, nonperformance of any of the contract provisions to the satisfaction of the Devasthanam, will disqualify the supplier to participate in the tenders for the next five years, by disabling the digital certificate."*

5. It is asserted in the affidavit filed in support of the writ petition that four bidders have participated in the tender process and quoted their prices for the provisions and the primary concerned pertains to the provision identified as Cashew Nut (Jeedipappu) along with details of participants and the corresponding prices quoted are detailed below:

| **So.No.** | **Firm Name** | **Provision** | **Price quoted** |
|---|---|---|---|
| 1. | Sai Manikanta Agencies | Cashew | Rs. 278-42 |
| 2. | Good Life Enterprises | Cashew | Rs. 690-00 |
| 3. | Ravi Kiran Traders | Cashew | Rs. 718-00 |
| 4. | Narayana Trading Corporation | Cashew | Rs. 798-00 |

6. It is the contention of the writ petitioner that the 4$^{th}$ respondent i.e. Sai Manikanta Agencies quoted least price of Rs.278.42 per kg. though the cost of cashew in the open market is Rs.700/- per kg., to determine and to secure the tender by any means quoted significantly unrealistic price of Rs.278.42 per kg., to declare as successful tenderer. After

stood as L1 Tenderer, the 4th respondent firm deliberately withdrew from the tender process of supplying of cashew. Consequently, the tender was awarded to the next highest bidder that it causes financial loss to the Devasthanam due to difference in quoted price and it is apparent that the 4th respondent firm has quoted unrealistic price and he is habituated in quoting unusual behavior in all the temples to cause monetary loss to the temples. Such actions of the 4th respondent not only undermine the integrity of the tender process but also demonstrate that there is collusion between the bidders with blatant disregard for ethical practices.

7. It is further stated that the 3rd respondent, who is able to do so, has not blacklisted the 4th respondent under clause No. 29 of the NIT, despite explicit tender specifications requiring that such defaulters be blacklisted and barred from participating in tenders for five years. No such action was taken against the 4th respondent, even though the EMD amount was forfeited, indicates that the 4th respondent had violated the tender conditions. Hence, the present Writ Petition is filed to grant above reliefs.

8. The 3rd respondent in its counter affidavit asserted that the Devasthanam called for tenders for supply of provisions for 18 items for a period of 6 months from 01.10.2018 to 31.03.2019 for day to day usage for preparation of Mahanivedana to Goddess and for preparation

of Prasadams like Laddu, Pulihora and also Annaprasadavitarana, etc., and also for Nitya Nivedyam purpose, and accordingly the technical bid was opened on 06.08.2026 wherein four agencies were participated in the said tender for supply of provisions.

9. It is further asserted that the lowest bidder who is 4th respondent herein, submitted a letter on 06.08.2018, stating that due to typographical error they have quoted 2 instead of 6 while quoting the price for cashew nut and requested to consider their quotation as 678.42 instead of 278.42 for supply of cashew nuts. The same was placed before the committee members and when they asked the 4th respondent to supply cashew nut for his quoted rate, he did not accept for the same. Hence, as per tender conditions, the EMD of Rs.3 lakhs paid by him was forfeited on 25.08.2018 and deposited in the Devasthanam account.

10. In view of the same, the Committee got approved the next lowest bidder 'Good Life Enterprises', who stood L2 for supply of the said item. So far as other items, the 4th respondent became the lowest tenderor i.e. L1. Accordingly, the said tenders were placed before the Trust Board and the same were approved vide Agenda No.199 on 25.08.2018.

11. It is further stated that the said proposals were submitted to the Commissioner, Endowments Department, A.P. Gollapudi, who is the competent authority to approve the same, and the same was approved by the Commissioner, Endowments Department on 26.09.2018.

12. It is further stated that more than 7 years elapsed from the date of said approval and even the said period of supply for 6 months was also completed by 31.03.2019 and hence, there is no cause of action at present to file the present Writ Petition and even there is no explanation in the Affidavit of the petitioner as regards the delay in filing the present Writ Petition of more than 7 years of conclusion of the said cause of action, and prayed this Court to dismiss the writ petition as devoid of merits.

13. Heard learned designate senior counsel Sri P. Gangaiah Naidu assisted by Sri Raghava Yathiraju, learned counsel and counsel on record Sri N. Bharat Babu, for writ petitioner and Sri Kappera Koteswara Rao, learned standing counsel for Endowment Department appearing for 3rd respondent. The 4th respondent remained *exparte* despite receiving of notice.

14. Learned designate senior counsel argued that since the respondents had forfeited the earnest money, it indicates that 4th respondent has committed the breach of tender condition No. 29, ought

to have been blacklisted for the next five years and ought to have recovered the financial loss caused to the 3rd respondent from the default tenderer and the 4th respondent has not been blacklisted, and it is clear that there was collusion between the fourth and 3rd respondent and writ petitioner is not the 4th respondent's competitor, as interested person, the present writ petition was filed, hence prayed to grant all the reliefs prayed in the writ petition.

15. After hearing the learned counsel for the petitioner and the respondents on giving thoughtful consideration, the Court answers the following issues:

> Issue No 1 : Whether the petitioner is having locus standi to file the present writ petition when he has not participated in the tender invited by the respondents contending that he is interested person under Section 2 (18) of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short hereafter called act 30/1987)?

16. The doctrine of locus standi is well settled to the effect that writ petition challenging the tender process by a person, who has not taken part in the tender, cannot be maintained. Various Courts have held that such a non-participant cannot be deemed to have a locus standi.

17. That a tenderer having participated in the tender process cannot be permitted to challenge the tender condition. This court places reliance on the judgment of Calcutta High Court in the case of ***Gypsum***

***Structural India Pvt. Ltd vs Brihanmumbai Municipal Corporation order*** in Writ Petition (LODGING) NO. 4209 OF 2023 **dated 23.03.2023**. A Division Bench of the Calcutta High court held that a stranger to the tender process could not be permitted to question the tender process. The high court has clearly observed that the petitioner there in the said case without being an applicant to the tender process could not maintain the writ petition.

18. Needless to say that an interested person under section 2 (18) Act 30/1987 is totally different from participating in the tenders on notification issued inviting tenders. And if the contention of the writ petitioner is accepted and it will be permitting an unending process, by passage of time situation keeps on changing and number of writ petitions will be filed.

19. In the instant case, the petitioner herein had not even participated in the tender process and as such, he has no locus standi to file the writ petition and the same is, therefore, liable to be dismissed on this ground alone.

Issue No 2 : Whether the writ petitioner is the aggrieved person to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India?

20. This court places reliance on the Judgment of the Apex Court in Jonnale Narasimharao & Company and Others etc. vs. State of A.P. and others : [1971 (2) SCC 163], on the proposition that the Writ Petitioner has no locus standi, as he has failed to show that he has suffered any loss or any disadvantage that would entitle him to seek a remedy under Art 226 of the Constitution of India.

Issue No 3 : Whether the writ petition is barred by latches:

21. The 3rd respondent has issued notification inviting tender from stake holders for procurement of 18 provisions for the period that commenced from 01.10.2018 to 31.03.2019. The 4th respondent who supplied 17 of these provisions but not supplied the cashew as per the agreement, the failure to supply the cashew prompted the present writ petition as it breach of contract by the writ petitioner who is 3rd party and interested person under Section 2 (18) of Act 30/1987.

22. The petitioner has not stated about the delay in filing the present writ petition. No explanation has been tendered in the petition to justify the inordinate delay in coming forward to challenge the awarding tender in favour of 4th respondent or not taking action by the respondents 1 to 3 against the 4th respondent. The notification inviting tender was issued for procurement provisions for the period 01.10.2018 to 31.03.2019, whereas the present writ petition has been filed after 7 years in the year 2025. The writ petition is obviously barred by laches and it primary

contention of the respondents. The Apex Court has repeatedly held that writ petition is liable to be dismissed on the ground of delay and laches if challenge is not made within a reasonable time.

23. In ***D. Nagaraj and others Vs. State of Karnataka and others*** reported in( 1977) 2 SCC 148], on the proposition that the existence of the right is implicit for the exercise of the extraordinary jurisdiction by the High Court under Article 226 Constitution of India. The Hon'ble Supreme Court held as under:-

> It is well settled that though Art 226 of the Constitution of India in terms does not describe the classes of persons entitled to apply thereunder, the existence of the right is implicit for the exercise of the extraordinary jurisdiction by the High Court under the said Article. It is also well established that a person who is not aggrieved by the discrimination complained of cannot maintain a writ petition.

24. The Apex Court in State of Orissa Vs. Ram Chandra Dev reported in [1963 SCC Online SC 179 = AIR 1964 SC 685] on the proposition that before issuing a Writ or an appropriate order in favour of the party, it must be established that the party has a right and the said right is legally invaded or threatened. The Hon'ble Supreme Court held as follows:-

> "On the merits, the position is absolutely clear. Under Art 226 of the Constitution of India, the jurisdiction of the High Court is undoubtedly very wide. Appropriate writs can be

> issued by the High Court under the said article even for purposes other than the enforcement of the fundamental rights and in that sense, a party who invokes the special jurisdiction of the High Court under Art 226 of the Constitution of India is not confined to cases of illegal invasion of his fundamental rights alone. But though the jurisdiction of the High Court under Art 226 of the Constitution of India is wide in that sense, the concluding words of the article clearly indicate that before a writ or an appropriate order can be issued in favour of a party, it must be established that the party has a right and the said right is illegally invaded or threatened. The existence of a right is thus the foundation of a petition under Art 226 of the Constitution of India. The narrow question which falls for our decision in the present appeals is whether the respondents can be said to have proved any legal right in respect of the properties of which they apprehended they would be dispossessed by the appellant."

25. In the light of the above discussion, it is demonstrably clear that the writ petitioner has not been denied or deprived or sustained any legal injury or interest. He has suffered no legal grievance. He has no legal peg for a justiciable claim to hang on. Therefore he is not a 'person aggrieved' and the petitioner has no locus standi to challenge the reliefs claimed in the writ petition.

26. In ***Master Marine Services (P) Ltd. v. Metcalfe & Hodgkinson (P) Ltd.*** (2005) 6 SCC 138, it has been held that (SCCp.148, para 15)

the State can choose its own method to arrive at a decision and it is free to grant any relaxation for bona fide reasons, if the tender conditions permit such a relaxation. It has been further held that the State, its corporations, instrumentalities and agencies have the public duty to be fair to all concerned. Even when some defect is found in the decision-making process, the Court must exercise its discretionary powers under Article 226 Constitution of India with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point.

27. For the above discussion the writ petition sans merit and it is liable to be dismissed and accordingly it is dismissed, however no order as to costs.

As a sequel, interlocutory applications, if any, pending in this writ petition shall stand closed.

**JUSTICE TARLADA RAJASEKHAR RAO**

Date: 19.06.2026

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**THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO**

**W.P.No. 2237 of 2025**

**Date: 19-06-2026**

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