

**SMT. JUSTICE T. RAJANI**

**WRIT PETITION No.14777, 14779 and 15791 OF 2019**

**COMMON ORDER:**

Writ Petition No.15791 of 2019 is filed by M/s.ABK Projects, represented by its Managing Partner, seeking to declare the action of the third respondent in issuing proceedings vide Lr.No.SE/O/SKLM/EE.Tech/Dy.EE.Comml/AE.C/D.No.375/19, dated 30.9.2019, and cancelling the agreement Nos.5500008542, 5500008543 and 5500008544 of 2019-20 executed in favour of the petitioner, as illegal.

2. Writ Petition Nos.14777 and 14779 of 2019 are filed by M/s.Abhinaya Enterprises, represented by its Managing Partner, seeking to declare the action of the respondents-APEPDCL, in not finalizing the tenders where the petitioner-firm only stood as qualified and submitted bids successfully, without any other impediments, pertaining to the Tekkali Operational Division of Srikakulam Circle, merely based on unfounded and stray statement of "Numerous Allegations" in the impugned memo CGM/O&CS/EPDCL/VSP/GM/02/DE/O&M-1/F./D.No.1446/19, dated 23.9.2019 and further attempting to award the works to a third party contractor on nomination basis against the terms of Tender Notification Nos.SE/O/SKLM/APEPDCL/9 to 13/19-20 and SE/O/SKLM/APEPDCL/14 to 20/19-20, as illegal.

3. Since the subject matter and the respondents, in all the three writ petitions, are common, these writ petitions are being disposed of, by this common order.

4. Heard Sri C.Raghu, the counsel appearing for the petitioner in W.P.No.15791 of 2019, Smt.D.Vasavi Ratna Kumari, the counsel appearing for the petitioners in W.P. Nos.14777 and 14779 of 2019, and Sri Metta Chandrasekhar Rao, the Standing Counsel for APEPDCL appearing for the respondents.

5. M/s.Abhinaya Enterprises (petitioner in W.P.Nos.14777 and 14779 of 2019) is in the business of supplying skilled, semi-skilled and un-skilled manpower to various companies to meet their needs. As such, it was awarded the work of *“Carrying out Operation and Maintenance of 83 numbers 33/11 KV Sub-stations round the clock on contract basis”*, as per the scope of the work in Operation Circle, Tekkali, consisting of Amudalavalasa, Kotabommali, Narasannapeta, Palasa, Pathapatnam, Sompeta and Tekkali Sub Divisions, for the period from 01.5.2018 to 30.4.2019. The petitioner-firm had accordingly entered into an LS agreement with the respondents-company, and had been carrying out the works without any complaint. The contract was due to complete by 30.4.2019. The respondents-APEPCEL, without calling for fresh tenders, has extended the services of the existing contractors up to 31.8.2019. While so, the respondents-

APEPDCL called for e-tender notification for the period 2019-20. In response to the e-tender notification, the petitioner participated in the sub-division wise e-tenders and submitted five bids. The petitioner-firm is only qualified, as such five commercial bids were opened pertaining to various places and the petitioner was awarded such bids. While things stood thus, the second respondent has issued the impugned Memo dated 23.9.2019 extending the period of contract for two more months i.e., from 01.9.2019 to 31.10.2019 duly authorizing the third respondent to make alternate arrangement for arranging payments to the Shift Operators and to avoid labour complications. But, surprisingly, the second respondent observed in the Memo that numerous allegations are there against the existing contractor i.e., the petitioner-firm and that the existing agreements lapsed by 31.8.2019 and also stated that e-tenders were not finalized. By way of W.P.Nos.14777 and 14779 of 2019, the petitioner seeks to direct the respondents to finalize the tenders where the petitioner-firm only stood as Qualified and submitted the bids.

6. The grievance of the petitioner in W.P.No.15791 of 2019 is that they were awarded contract for two months of the extended period of contract i.e., from 01.9.2019 to 31.10.2019 and that before completion of the said period, their services were terminated.

7. Initially, the contract was awarded to the petitioner in W.P.Nos.14777 and 14779 of 2019 and later instead of calling for fresh tenders, the contract was extended for another period of two months i.e., from 01.9.2019 to 31.10.2019 in favour of the existing contractors. During that period, due to some allegations against the petitioner in W.P.Nos.14777 and 14779 of 2019, the contract was entrusted to the petitioner in W.P. No.15791 of 2019.

8. The Standing Counsel for the respondents submits that the cause in the writ petitions does not survive, as the contract period is over, and now the Government has taken a policy decision and issued G.O.Ms.No.126, General Administration (SU.I) Department, dated 18.10.2019 framing a policy and guidelines on recruitment of persons on Outsourcing/Contract basis and also on engaging the Agencies for outsourcing support services. As several complaints have been received against engaging the services of Outsourcing Agencies including these Agencies not passing the full remuneration to the outsourced employees, in many instances, the Government felt it necessary to incorporate a dedicated Corporation that will directly outsource manpower to various Departments/Organizations in the State, as per their requirements. The counsel for the petitioners, in the three W.Ps., did not deny the fact that when the Government has taken a policy decision, there cannot be any say in the same. When a policy is evolved for betterment of a scenario

and when no mala fides can be attached to such policy decision, the Courts do not intervene. Apart from the Government taking a policy decision to directly outsource the manpower, the fact remains that the contract period in respect of the petitioners has come to an end.

9. Hence, in view of the above, this Court opines that the cause in these writ petitions no longer survives.

10. Accordingly, the writ petition Nos.14777, 14779 and 15791 of 2019 are dismissed. As a sequel, miscellaneous petitions pending consideration if any in the writ petitions shall stand closed.

November 05, 2019.

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**SMT T. RAJANI, J**