

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 06TH DAY OF AUGUST, 2012

PRESENT

THE HON'BLE MR. JUSTICE N. KUMAR

AND

THE HON'BLE MR. JUSTICE H. S. KEMPANNA

WRIT APPEAL No.30756/2012 (GM-TEN)

BETWEEN:

Smt. Bharathi, D/o Nilo Sail,
Age: 38 years, Occ: Business,
R/o Devabag, (Chittakula),
Sadashivgad, Karwar.

APPELLANT

(By Sri K.L.Patil & Sri S.B.Naik, Advs.)

AND:

1. The Principal Secretary,
Department of Animal Husbandry
And Fisheries,
Government of Karnataka,
M.S.Building, Bangalore.
2. The Director,
Directorate of Fisheries,
Government of Karnataka,
V.V.Kendra Podium Block,
Bangalore-1.

3. Chief Executive Officer,
Shigadi Krishikar Abhivrudhi
Samste, Hubbuwad, Karwar.
4. The President,
Shigadi Krishikar Abhivrudhi Samste,
Zilla Panchayath, Karwar.

... RESPONDENTS.

This writ appeal is filed under Section 4 of the Karnataka High Court Act praying to set-aside the order dated 20.06.2012 passed by the learned single Judge in W.P. No.64075/2012.

This appeal coming on for orders regarding non compliance of office objections this day, **N.Kumar J.**, delivered the following:

J U D G M E N T

Appellant in this appeal has challenged the order passed by the learned Single Judge declining to interfere with the endorsement issued by the respondents canceling the contract in favour of the appellant.

2. Respondent No.3 issued a paper publication in 'Karavali' daily news paper inviting applications of interested persons for taking on

lease for a period of 10 years of Kanasagiri Sigadi Farm of Chittakul village in Karwar Taluk. Appellant submitted her application along with Rs.50,000/- as initial deposit, as prescribed. Appellant was the successful bidder. As per the tender rules, she deposited Rs.4,50,550/- as advance lease rent on 26.10.2010. An agreement came to be entered on 03.11.2010. Under the terms of the tender, appellant was expected to furnish bank guarantee for a like amount towards lease rent as security. The same was not done on the ground that electricity supply was not provided to the farm. It appears, negotiations took place and authorities agreed to provide electricity connection, but in the meanwhile, they demanded the appellant to furnish a bank guarantee which she declined to do on the

ground that electricity supply is not provided and unless electricity is supplied, she will not be in a position to furnish the bank guarantee. Therefore, the authorities issued an endorsement dated 01.06.2012 canceling the contract. They made it very clear that again a public tender would be called for and she is at liberty to participate in the said proceeding notwithstanding cancellation of the contract. Aggrieved by the said endorsement, she preferred writ petition. The learned Single Judge by detailed order has declined to quash the said endorsement. Aggrieved by the said order, present appeal is filed.

3. Learned counsel for the appellant, assailing the impugned endorsement contends, until and unless they provide electricity, it is not possible for the appellant to offer the bank guarantee,

she has paid Rs.4,50,550/- the amount agreed to be paid, she has been put to great loss, authorities promised her that electricity would be given at the earliest, have not kept up the promise. Unless they provide electricity to the Farm, they have no right to demand the bank guarantee. In these circumstances, he submits, endorsement issued by the authorities is illegal, arbitrary and requires to be set aside and the learned Single Judge was in error in not quashing the said endorsement.

4. We do not see any substance in the said contention. In the terms of the contract not only the successful bidder has to deposit Rs.4,50,000/- within the period stipulated but also expected to furnish bank guarantee for like amount as security. Admittedly, it is not done. Whatever may be the understanding between the

parties, in the end of day when they called upon her to perform her part of obligation by extending the period and when she did not do so, she has no right to challenge the cancellation, because that is only consequence of breach of tender document. In fact, notwithstanding such cancellation, they have reserved right to the appellant to participate in the tender for leasing the premise. Therefore, in the facts of this case, we do not see any justification to interfere with the order of the learned Single Judge which is passed in accordance with law. No merit in the appeal.

Dismissed.

SD/-
JUDGE

SD/-
JUDGE

mkc