

APHC010699962025

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

[3483]



WP(PIL) NO: 239 of 2025

Kanithi Deepak,

...Petitioner

Vs.

The State Of Andhra Pradesh and Others

...Respondent(s)

Advocate for Petitioner:

METTA CHENDRA SEKHAR RAO

Advocate(s) for Respondent(s):

GP FOR ENERGY, V V SATISH (SC
for APEPDCL), GP FOR GENERAL
ADMINISTRATION, GP MUNICIPAL
ADMN AND URBAN DEV AP

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SRI JUSTICE RAVI CHEEMALAPATI**

DATE : 04.02.2026

ORDER:

(Per Sri Justice Ravi Cheemalapati)

The present Public Interest Litigation has been filed questioning the tender conditions in the tender notifications issued by the Transmission Corporation of Andhra Pradesh Limited (for short, 'AP TRANSCO').

2. The case of the petitioner is that the AP TRANSCO has issued four tenders and purchase orders as follows:

(1) Tender No.APT-e-41/2024 dated 22.11.2024 for Supply, Laying , Testing and commissioning of 220 KV, 1000 sq.mm XLPE U/G Copper Cable with associated accessories including services for Jointing, Terminations, Site Testing and Commissioning the complete Cable System for diversion of 220KV VTS-Podili DC line (UG cable -19KM), 220KV VTS-Tallapalli Ckts I&II (UG cable -11KM), 220KV VTS- Tallapalli Ckts III&IV (UG cable-11KM) and 220KV VTS-Tadikonda Ckts I&II (UG cable- 14KM) which are passing across the Seed Capital Region (From N10 to End of CRDA Limits) on turnkey basis in Guntur District and consequential Purchase Order no.1091dated 04-06-2025;

(2) Tender No. APT-e-46/2024 dated 28.11.2024 for Supply, Erection, Laying, Testing and Commissioning of (i) Upgradation of 132/33kV SS Tadeipalli to 220/132/33kV SS with 3X160MVA Power Transformers and Erection of 220kV DC line from 400/220kV GIS Tallayapalem to proposed 220kV SS Tadeipalli by laying (ii) 220kV 1000Sq.mm Single core UG cable from 400/220kV GIS Tallayapalem to Kondaveetivagu (9.2KM) &(iii) Stringing of 220kV Line on existing Multi circuit towers up to proposed 220kV SS Tadeipalli (4.5KM) in Guntur District and consequential Purchase Order no. 1089 dated 22-05-2025;

(3) Tender No. APT-e-47/2024 dated 29.11.2024 for Supply (balance), Erection, testing and commissioning of (i) 220/33 KV GIS at Nelapadu, (i) Laying of 220KV DC, 1000 Sq.mm XLPE UG Cable from 400/220 KV GIS Tallayapalem to proposed 220/33kV GIS Nelapadu (11 KM) and (ii) Erection

of OH line by making LILO of 220 KV VTS-Podili line to the proposed 220/33 KV GIS Nelapadu (2 KM) on turnkey basis in CRDA, Guntur District and consequential Purchase Order no. 1095 dated 18-06-2025;

(4) Tender No. APT-e-04/2025 dated 29.07.2025 for Supply, Erection, testing and commissioning of (i) 220/33 kV GIS at Lingayapalem, (ii) Laying of 220KV DC,1000 Sq.mm XLPE UG Cable from 400/220 kV GIS Tallavapalem to 220/33kV GIS Lingayapalem(8 KM) and (iii) Laying of 220kV DC,1000 Sq.mm XLPE UG Cable by making LILO of 220kV VTS-Narasaraopet to proposed 220/33kV Lingayapalem GIS (0.5 KM) on turnkey basis in CRDA, Guntur District and consequential Purchase Order dated 18-08-2025.

3. It is the case of the petitioner that in the said tender conditions, the technical qualification under Clause 1.3(iv) mandates that bidder must have executed works such as substations, transmission lines, or any infrastructure project of value more than 300 crores for State/Central Government/PSU agencies and under clause 1.3(iii)(A) the bidder must have executed 100% of the tender quantity(290 KM) of 220KV XLPE underground cable within the last 10 years and the same must be in successful commercial operation for atleast two years. In the tender conditions it was specifically mentioned that the bidder meeting the eligibility criteria as mentioned at Clause1.3(iv) above is mandatorily required to appoint a sub-contractor who meets the technical qualification criteria as mentioned in Clause No. 1.3(iii) as well as Cable Manufacturers Qualification Criteria as mentioned at Clause No.1.4(l).

4. Further, the Clause 1.4(I) mandates that the manufacturer of Extra High (EHV) cables having experience in supplying of cable of respective voltage for at least last five years as on the date of tender publishing date who must have supplied 100% of Copper conductor cable of offered conductor size of higher size of 220 kV or higher voltage cable in a continuous period of 12 months of the last five years in India out of which atleast 50% of supplied cable must in operation for not less than two years, which contradicts the condition under Clause 1.3(iii) requiring 100% performance proof. This inconsistency appears specifically crafted to suit a single manufacturer namely M/s Universal Cables Limited (9th respondent herein) while excluding all the competing manufacturers.

5. It is his further case that that Technical Qualification Requirement (for short, 'QR') mentioned in Clause 1.3(iv)-a,b,c, no way relates to the underground cable laying works. However, these clauses along with the clause 1.3 (iii)-A & 1.4(I) were deliberately included along with 1.4(iii) (Profit based) and 1.4(iv) (Black listing & litigation based) clauses to favor Respondent no.7 and a single manufacturer (Respondent no.9). Clause 1.4(I)(iii)& (iv) mandates that the manufacturer should be in profit for last with three consecutive financial years and he should not have been black listed by any Government power utility during the last one year regardless of any subsequent withdrawal by the utility or court orders and also not be under litigation with any of the AP Government power utility as on date of tender

publishing date. The criteria mentioned in all above clauses would be impossible as there are no Engineering Procurement and Construction(EPC) bidders in India who executed such a large quantum of underground cable within the last decade.

6. It is the further case that, the technical qualification requirements mentioned above are almost same for all the tenders. Upon combined reading of above clauses and sub-clauses, it is evident that the qualification criteria have been structured in a manner to enable a pre-determined and arbitrary outcome, facilitating unofficial respondents to be declared as the successful bidders, despite lacking relevant experience in the underground cable laying works.

7. It is his further case that, the Qualification Requirements prescribed in the tenders issued by AP TRANSCO are arbitrary, unreasonable and tailored in such a manner that only one or very few pre-identified bidders are able to qualify. As a consequence, healthy and fair competition has been completely eliminated. In fact, the State Government utilities across India, permit cable manufacturers to participate directly in the bidding process in order to minimize project costs. However, in the State of Andhra Pradesh, the tenders have been issued with conditions whereby competent bidders are rendered ineligible, with a view to facilitate the unofficial respondents, which is impermissible under the settled principles of tender jurisprudence.

8. It is the petitioner's further case that the 6th & 7th respondents has quoted 8-10% above the estimated values and 8th respondent has quoted 4.5% above the estimated value and after being declared as L1, the entire projects have been sub-contracted to 9th Respondent, who is the actual manufacturer and executing agency but the 9th respondent is executing the works at nearly 20-25% less than the awarded tender value and the differential amounts remains unaccounted, raising serious concerns of arbitrariness, collusion, and possible misappropriation of public funds. Hence, filed this Public Interest Litigation (PIL).

9. Heard Sri Metta Chandrasekhar Rao, learned counsel for the petitioner and Sri Dammalapati Srinivas, learned Advocate General for respondents.

10(a). Learned counsel for the petitioner while reiterating the contents of the affidavit contended that the subject tender notifications were issued in arbitrary manner solely with an intention to facilitate the unofficial respondents and the qualification criteria mentioned in the said tenders are no way related to the underground cable laying works. He further submitted that the tender process was deliberately designed with a malafide intention to benefit the private parties causing loss to the Public Exchequer and the same cannot withstand judicial scrutiny in light of the principles consistently laid down by the Hon'ble Supreme Court. He further submitted that, such tender structuring violates the principles of Level Playing Field, Fair Competition Transparency in Public Procurement and also amounts to violation of Fundamental Rights of

the Company, guaranteed under Article 19 (1)(g) of the Constitution of India and therefore, the said tenders liable to be set aside.

(b) In support of his contentions, learned counsel for the petitioner relied on the judgments of the Apex Court in ***Vinishma Technologies Pvt Ltd. Vs State of Chattisgarh & another***¹ and ***Tata Cellular Vs Union of India***² and prayed to pass appropriate orders in that regard.

11(a). On the other hand, learned Advocate General contended that the judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides and its purpose is to check whether choice or decision is made “lawfully” and not to check whether choice or decision is “sound”. He further submitted that when the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. He further submitted that evaluating tenders and awarding contracts are essentially commercial functions and the principles of equity and natural justice stay at a distance. He further submitted that if the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. It was further submitted that the power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes.

¹ 2025 INSC 1182

² (1994) 6 SCC 651

(b) The Learned Advocate General further submitted that, in the present case, the tender notifications were issued in the year 2024 but the petitioner being an advocate, filed this present PIL, impugning tender conditions at the end of the year 2025 which is *per-se* not maintainable. He further submitted that, it is not the case of the petitioner that he wanted to apply under the E-Tender and due to the eligibility criteria, he was prevented from applying. He further submitted that the petitioner claims that he has filed the present Public Interest Litigation trying to raise a public cause but it was filed as a blackmail tactics. He further submitted that, the Hon'ble High Court of Delhi in ***Dhruv Chawla Vs Union of India***³ has dismissed the PIL which was filed by an advocate questioning the tender conditions.

(c) He also submitted that, usually the writ courts would not interfere in matters of formulating conditions of tender because it feels some other terms in the tender would have been fairer, wiser or more logical and certain preconditions or qualifications would have laid down to ensure that a contractor has capacity and resources to successfully execute the work. In support of his contentions, learned Advocate General relied on the judgment of the Apex Court in ***M/s.N.G.Projects Limited Vs M/s Vinod Kumar Jain & others***⁴. He further submitted that the petitioner is not competent to dictate the tender conditions that are to be adhered by the bidders. Further, the subject tenders were already opened, finalized, agreements were entered

³ 2024 SCC OnLine Del 3156

⁴ 2022 AIR(SC) 1531

upon and the works have also commenced. In view of the same, the PIL is not maintainable and liable to be dismissed and accordingly prayed to dismiss the present PIL.

12. Perused the record and considered the submissions of both the learned counsel.

13. While questioning the subject tender notifications (four) and purchase orders issued by the AP TRANSCO, the learned counsel for the petitioner highlighted the following points:

- (i) Qualification requirements are restrictive and repetitive,
- (ii) Experience requirements are unrelated to underground cable scope,
- (iii) Impractical "100% execution" conditions were designed to eliminate competition.
- (iv) Profitability, Black listing and litigation-based disqualifications were inserted selectively.
- (v) Only single manufacturer (9th respondent-M/s Universal Cables Ltd.) and specific contractors are benefitted.

14. The petitioner, is a practicing advocate, has questioned the tender conditions stating that they are tailored to suit the unofficial respondents and thereby ensuring a pre-determined and restricted participation process and that by virtue of the same, there is loss to the public exchequer, raising serious concerns of arbitrariness, collusion and misappropriation of public funds. The Judgments relied by the learned counsel for the petitioner are, no doubt, well settled principles of law. Unless there is total arbitrariness or that

the tender has been granted in a malafide manner, the Court should refrain from interfering in the grant of tender but instead relegate the parties to seek damages for the wrongful exclusion rather than to injunct the execution of the contract. It is settled that burden lies heavily on the petitioner to plead and prove that there is arbitrariness and malafideness on the part of the respondents. In the present case, the petitioner has not specifically pleaded or proved arbitrariness or malafideness on the part of the respondents. In ***M/s.N.G.Projects Limited (supra 4)***, the Apex court has held that writ court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer. The Court does not have the expertise to examine the terms and conditions of the present day economic activities of the State and this limitation should be kept in view. Courts should be even more reluctant in interfering with the contracts involving technical issues as there is a requirement of the necessary expertise to adjudicate upon such issues. The approach of the court should be not to find fault with magnifying glass in its hands, rather the court should examine as to whether the decision-making process is after complying with the procedure contemplated by the tender conditions.

15. Doubtless, he who seeks to invalidate or nullify any act or order must establish the charge of bad faith, an abuse or a misuse by the authority of its powers. In ***E.P.Royappa Vs State of Tamil Nadu***⁵ it was held that burden of proving malafides is on the person making allegations and burden is very

⁵ (1974) 4 SCC 3

heavy. Also, in ***Union of India Vs Ashok Kumar***⁶, the Apex Court has held that seriousness of allegations of malafides demands proof of high order of credibility and the Courts should be slow to draw dubious inferences from incomplete facts placed before them by a party, particularly when the imputations are grave and they are made against the holder of an office having high responsibility. It was further held that, he who seeks to invalidate or nullify any act or order must establish the charge of bad faith, an abuse or a misuse by the authority of its powers.

16. As rightly contended by the learned Advocate General by relying on the decisions in ***Dhruv Chawla (supra 3)*** and ***M/s.N.G.Projects Limited (supra 4)*** the 'person aggrieved' in the present case is lawyer or law firms, who appears in courts daily. He is fully familiar with the practice and procedure of the Court and have access to the Court all the time. Being so, the petitioner had filed the present petition on 19.12.2025 when the tenders are issued in the year 2024. Being a practicing advocate, questioning the tender conditions at this length of time is unjustifiable and moreover the subject tenders were already allotted to the successful bidders and the works were commenced.

17. Further, as could be culled out from the facts of the present case on the touchstone of the legal principles discussed herein above, it can be seen that the present petition has been filed to espouse cause not of persons who are downtrodden, or belong to an economically weaker section of the society, who

⁶ (2005) 8 SCC 760

are incapable of approaching the Courts for protecting their rights or challenging the action of the State, rather, the petitioner seeks to espouse the cause of a firms/contractors/companies, who cannot, by any stretch of imagination, be said to be either marginalized or suffer an economic handicap and cannot take resort to the remedies which are otherwise available to them in law. If such is the case, this Court fails to understand as to how the PIL is maintainable.

18. The Courts through various pronouncements have repeatedly emphasized the need to be cautious of the fact that litigation in the name of public interest is not permitted to be misused for purposes other than for which it was envisaged and conceived. It is in that context that the Supreme Court in **Jaipur Shahir Hindu Vikas Samithi vs. State of Rajasthan**⁷, stated thus:

“49. The concept of public interest litigation is a phenomenon which is evolved to bring justice to the reach of people who are handicapped by ignorance, indigence, illiteracy and other downtrodden people. Through the public interest litigation, the cause of several people who are not able to approach the court is espoused. In the guise of public interest litigation, we are coming across several cases where it is exploited for the benefit of certain individuals. The courts have to be very cautious and careful while entertaining public interest litigation. The judiciary should deal with the misuse of public interest litigation with iron hand. If the public interest litigation is permitted to be misused the very purpose for which it is conceived, namely, to come to the rescue of the poor and downtrodden will be defeated. The courts should discourage the unjustified litigants at the initial stage itself and the person who misuses the forum should be made accountable for it. In the realm of public interest litigation, the courts while protecting

⁷ (2014) 5 SCC 530,

the larger public interest involved, should at the same time have to look at the effective way in which the relief can be granted to the people whose rights are adversely affected or are at stake. When their interest can be protected and the controversy or the dispute can be adjudicated by a mechanism created under a particular statute, the parties should be relegated to the appropriate forum instead of entertaining the writ petition filed as public interest litigation.”

19. The tenderers, who participated in the bid and the other companies/firms/contractors, did not question the tender conditions and the petitioner, who did not even participate in the tender process has questioned the tender conditions, that too without there being any basis. The judgments relied by the learned counsel for the petitioner is not applicable to the facts of the present case and the petitioner has failed to plead and prove, in specific, that the decision made by the respondent authority is malafide, arbitrary and irrational with cogent reasons. On the basis of the material on record, we find that the present petition is misconceived and appears to have been filed with political motives and is liable to be dismissed at the admission stage itself.

Accordingly, the Public Interest Litigation (PIL) is ***dismissed***. No costs.

As a sequel, miscellaneous applications pending if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ

RAVI CHEEMALAPATI, J

BRS