

**IN THE HIGH COURT OF UTTARAKHAND**

**AT NAINITAL**

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

**WRIT PETITION (M/B) NO. 54 OF 2023**

**28<sup>TH</sup> JUNE, 2023**

**BETWEEN:**

Supra Electrical & another .....Petitioners.

And

State of Uttarakhand & others ....Respondents.

**With**

**WRIT PETITION (M/B) NO. 56 OF 2023**

**BETWEEN:**

Supra Electrical & another .....Petitioners.

And

State of Uttarakhand & others ....Respondents.

Counsel for the Petitioners : Mr. Piyush Garg, learned counsel.

Counsel for the Respondent No.1 : Mr. Vikas Pande, learned Standing Counsel.

Counsel for the Respondent Nos.2 & 3 : Mr. D.S. Patni, learned Senior Counsel assisted by Mr. B.S. Bisht, learned counsel.

**The Court made the following:**

**COMMON JUDGMENT:**(per Hon'ble The Chief Justice Sri Vipin Sanghi)

These writ petitions were preferred by the petitioner in relation to two similar tenders invited by the respondent-authorities, namely "*Retrofitting Works of Bhatroj Richi Thapal (MVS) Pumping Water Supply Scheme- Supply, installation, testing, commissioning of pumping plants, transformer and other E & M Appurtenant works etc. complete (Part-I) (Under JJM, Block- Betalghat, District Nainital, and Retrofitting Works of Bhatroj Richi Thapal (MVS)*

*Pumping Water Supply Scheme- Supply, installation, testing, commissioning of pumping plants, transformer and other E & M Appurtenant works etc. complete (Part-II) (Under JJM, Block- Betalghat, District Nainital)”.*

2. During the pendency of these writ petitions, we had passed orders of restrained *vide* our order dated 04.05.2023. The respondents were called upon to file their counter-affidavits, which were filed. The interim order was continued upto 08.06.2023. However, on that day, learned counsel for the petitioner was not available to argue the matter, and consequently, we vacated the order of *status quo* since it involved a public work, and adjourned the matter to 20.06.2023.

3. In the meantime, respondent-authorities have awarded the contracts to the lowest successful bidders in respect of both the tenders.

4. We heard the submissions of learned counsels on 27.06.2023. Since it was stated by Mr. Garg that the rates quoted by the petitioners were lower than the rates quotes by the successful bidder(s), we required Mr. Patni to take instructions from the successful bidder(s)- in respect of both the tenders, if they were willing to perform the tenders on the rates offered by the petitioners in relation to two tenders.

5. Mr. Patni has taken instructions, and he states that both the successful bidders, namely M/s R/K. Engineers Sales Ltd. and M/s Mittal Machinery in WPMB Nos.54 and 56 of 2023 respectively, are willing to execute the works at the rates quoted by the petitioners.

6. Both the successful bidders are also represented through counsel today, namely Mr. Xitiz Kaushik. He states that he has received instructions on E-mail from both the successful bidders. The same are taken on record. He states that both the bidders are willing to perform the works on the rates quoted by the petitioners, as disclosed in the respective writ petitions.

7. The respondent- department is at liberty to accordingly modify the agreements entered into with the successful bidder in respect of both the tenders so as to incorporate the rates which are claimed to have been quoted by the petitioners, and which are disclosed in both the writ petitions.

8. Since the contracts already stand awarded to two bidders, we are not inclined to entertain the present writ petitions.

9. We, accordingly, dismiss the same, leaving it open to the petitioner to pursue its remedy in civil proceedings, in case, the petitioner so chooses to do. We make it clear that

we have not examined the merits of the petitioners' submission, and this order shall not come in the way of the either party in any such proceedings, which may be instituted.

10. The writ petitions stand dismissed in the aforesaid terms.

11. Pending application, if any, also stands disposed of.

**(VIPIN SANGHI, C.J.)**

**(RAKESH THAPLIYAL, J.)**

Dated: 28<sup>th</sup> June, 2023

NISHANT