

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. 268 OF 2023

20TH SEPTEMBER, 2023

Moradabad Transport Agency

.....Petitioner.

Versus

Uttarakhand State Cooperative Federation Ltd. & another

....Respondents.

Counsel for the Petitioner : Mr. Anil Kumar Joshi, learned counsel.

Counsel for the Respondents : Mr. Lalit Samant, learned counsel.

The Court made the following:

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

The petitioner has preferred the present writ petition to challenge Clauses 5 and 26 of the terms and conditions of Tender issued by the respondents for paddy transportation and labour handling work at the purchasing centers of the Federation for paddy procurement works under Kharif Marketing Year 2023-24.

2. Clauses 5 and 26 of the terms and conditions of the Tender read as follows:-

"5. Tender will be given for only one purchase centre on one tender form and a maximum of only 02 tenders can be given by any bidder. Tender forms can be uploaded for the purchasing centre only. Uploaded tenders of more than 02 purchasing centres will not be accepted.

26. Preference will be given to the participant/ participants who fulfill the eligibility criteria on the basis of their work experience, truck availability and financial capacity,

experience of working in the federation and had participated in the tender for handling and transportation of the federation in the Rabi Procurement Year 2023-24”.

3. Learned counsel submits that the restriction on participation in only two tenders is prohibitive, and cannot be imposed.

4. We do not find any merit in this submission for the reason that the respondents are entitled to distribute the work amongst several contractors so as to prevent creation of monopoly in the hands of few bidders.

5. We, therefore, do not find any merit in the challenge to Clause 5 of the terms and conditions of the tender.

6. So far as Clause 26 is concerned, the same provides that the preference will be given to the participant/ participants who fulfill the eligibility criteria on the basis of their work experience, truck availability and financial capacity, and experience of working in the federation, and have participated in the tender in handling the transportation of the federation in the Rabi Procurement Year 2023-24.

7. The grievance of the petitioner relates to the preference given to the bidders, who had merely participated in the earlier tender for Rabi Procurement Year 2023-24.

8. Again, we do not find any illegality or unreasonableness in the said condition. We find that the tender has been invited for over 50 centres. Not more than 02 tenders can be submitted by any of the bidders, therefore, there would be work available for a large number of bidders.

9. For the aforesaid reasons, we find no merit in this petition, and the same is, accordingly, dismissed.

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

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 20th September, 2023

NISHANT