

GAHC010266632024



2024:GAU-AS:12728

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6724/2024

EASTERN TECHNOLOGY GROUP
HAVING ITS REGISTERED OFFICE AT AIDC, R.G.BARUAH ROAD,
GUWAHATI- 781024, REPRESENTED BY ITS SOLE PROPRIETOR, SRI
DEEPAK CHOUDHURY, AGED ABOUT 50 YEARS, SON OF SHRI DHARANI
CHOUDHURY, RESIDENT OF FLAT NO. 4E, DICHANG APARTMENT,
BELTOLA TINIALI, GUWAHATI, DISTRICT- KAMRUP (M), PIN- 781028,
ASSAM

VERSUS

UNION OF INDIA AND ANR.
REPRESENTED BY THE SECRETARY (HIGHER EDUCATION) TO THE
MINISTRY OF EDUCATION, GOVERNMENT OF INDIA, NEW DELHI

2:THE NATIONAL INSTITUTE OF TECHNOLOGY
SILCHAR
REPRESENTED BY ITS DIRECTOR
SILCHAR
ASSAM
PIN- 78801

Advocate for the Petitioner : MR. S BANIK, MS F BEGUM

Advocate for the Respondent : DY.S.G.I., SC, NIT

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 16-12-2024

Heard Mr. S Banik, learned counsel for the petitioner. Also heard Mr. SP Choudhury, learned counsel for the respondent No. 2.

2. The petitioner's case is that the petitioner participated in a tender process pertaining to Bid No. GEM/2024/B/5334802 dated 28.08.2024, for procurement of Desktop Computers (Q2) hereinafter referred to as the NIT. In the bid documents, the bidder was required to submit a declaration that the petitioner had never been black listed by any Government Institute/ Organisation or Public Sector Undertaking. The petitioner thereafter submitted a letter dated 08.11.2024 in pursuant to the NIT, which was uploaded. The said letter dated 08.11.2024 states that the petitioner had been blacklisted by the Indian Institute of Technology, Guwahati in 2012, for a period of 3 (three) years. The period of blacklisting having been over after 3 (three) years, the petitioner was thereafter delisted from being blacklisted. The petitioner's grievance is that the State respondents have rejected the petitioner's technical bid only on the ground that the petitioner was blacklisted in the year 2012.

The petitioner's counsel submits that as the blacklisting period had been over in the year 2015, the stigma attached to blacklisting of the petitioner could not continue beyond the year 2015.

3. The petitioner's counsel submits that the financial bid of the tenderers have been opened and that the petitioner's bid, though not opened, is known to him. As per the petitioner's financial bid, his bid is L-2.

4. Mr. SP Choudhury, learned counsel for the respondent No. 2 submits that the tender has been awarded to the tenderer, whose bid was L-1. Accordingly, the writ petition has become infructuous, in so far as the petitioner's claim relates to the award of the contract.

5. Mr. SP Choudhury, learned counsel for the respondent No. 2 submits that he has got no quarrel with the submission made by the petitioner's counsel that the petitioner's bid has been disqualified due to the petitioner having been blacklisted in the year 2012.

6. I have heard the learned counsels for the parties.

7. The issue here is whether the petitioner's bid could have been rejected on the ground that he had been blacklisted in the year 2012 for a period of three years, which effect had subsequently been over by the year 2015. The answer to that is in the negative. Further, the reasons for which the petitioner's bid has been rejected, i.e. on the ground that he had been blacklisted earlier, amounts to deciding that the blacklisting of the petitioner in the year 2012 would have to be considered to be in perpetuity. In the case of ***M/S Chauhan Builders Raibareli vs The State of Uttar Pradesh & Ors.***, in SLP(C) No. 32840/2018, which was disposed of on 16.08.2022, the Supreme Court has held that one cannot be blacklisted for life. The order of blacklisting to the extent that it has not specified the period, cannot be sustained. Since the order of blacklisting was passed way back in 2013 and the writ petition was dismissed on 05.09.2018, the Supreme Court deemed it appropriate to exercise its powers under Article 142 of the Constitution, to pass an order of blacklisting the appellant for a period of five years from the date the order was passed.

8. The above clearly shows that there cannot be an order of blacklisting for life. The above being said, the petitioner had not been blacklisted for life, but had only been blacklisted for three years which was over in the year 2015. Consequently, the respondents could not have rejected the petitioner's bid, by acting as if the blacklisting order of 2012 would have its existence beyond three years, i.e. in perpetuity.

9. In view of the reasons stated above, the rejection of the petitioner's technical bid by the respondents is hereby set aside. As the counsel for the respondent No. 2 has submitted that the contract has been awarded to the tenderer whose bid was L-1, this Court is of the view that the present writ petition would be relevant for future tenders. However, in the event that the tenderer, whose bid is L-1 does not accept the contract for whatsoever reasons, the respondents are directed to open the financial bid of the petitioner and consider the petitioner for the said contract.

10. The writ petition is disposed of accordingly.

JUDGE

Comparing Assistant