



2024:UHC:8925-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL
HON'BLE THE ACTING CHIEF JUSTICE MR. MANOJ
KUMAR TIWARI
AND
HON'BLE SRI JUSTICE VIVEK BHARTI SHARMA
3RD DECEMBER, 2024

WRIT PETITION (MB) NO. 539 Of 2024
Dheerpal Singh Rawat Petitioner

Versus

Uttarakhand Rural Road Development Agency and
others. Respondents

Counsel for the petitioner	:	Mr. Sandeep Kothari, learned counsel.
Counsel for the respondents	:	Mr. S.S.Chauhan, learned counsel for respondent Nos. 1 & 2. Mr. Pankaj Chaturvedi, learned counsel for respondent No. 3.

JUDGMENT : (per Mr. Manoj Kumar Tiwari, A.C.J.)

Respondent No. 1 invited bids from interested persons for upgradation of a road between Purola to Khaladi Chaptadi Kharada. Petitioner also submitted bid pursuant to the tender notice. Petitioner's bid has been declared to be non-responsive vide order dated 03.09.2024.

2. In this writ petition, petitioner has challenged the said order and has sought a mandamus to treat him as technically qualified.

3. In the impugned order, the following four reasons have been indicated for declaring petitioner's bid as technically non-responsive:-



- “1. DPR related certificate is not submitted.
2. Contraction equipment affidavit is misleading (water tanker & vibratory roller)
3. One Ongoing certificate (MI) IS NOT SUBMITTED in EE letter head.
4. Technical staff is not submitted as per SBD.”

4. Learned counsel for petitioner contended that the reasons, indicated for declaring petitioner’s bid as non-responsive, are not sustainable in the eyes of law as there is no proforma prescribed regarding DPR Certificate, nor the authority was specified, who may issue such Certificate. He further contended that the second reason for rejecting petitioner’s bid is also not sustainable, as petitioner had submitted an affidavit regarding contraction equipment, in which correct information was supplied regarding the equipment available with the petitioner. He contends that the third reason for rejecting petitioner’s bid is without any substance, as petitioner had given Ongoing Certificate from the competent authority and the only defect in the said Certificate is that the concerned Executive Engineer had issued the Certificate not in his letter head, but on an ordinary sheet of paper. He further



submits that the fourth reason indicated for rejecting petitioner's bid is also not tenable in the eyes of law, as petitioner had duly submitted affidavit indicating names of technical staff, along with their respective qualifications.

5. Mr. S.S. Chauhan, learned counsel appearing for Uttarakhand Rural Road Development Agency, however, submits that the first ground of rejection of petitioner's bid is referable to Clause 16 of Notice Inviting Tender, which reads as under:-

“16. The bidders having affiliates in his team participated as a consultant in the preparation of DPR, design or technical specifications of the same contract, may be considered to have a conflict of interest and shall be disqualified.”

6. Thus, learned counsel appearing for Uttarakhand Rural Road Development Agency submits that petitioner did not file any certificate in terms of Clause-16 of NIT that members of the consultant firm, which was engaged by employer for preparation of DPR, are not employed by petitioner, therefore, the competent Authority was justified in rejecting petitioner's technical bid for non-compliance of Clause-16 of NIT. Regarding



the second ground of rejection, Mr. Chauhan submits that petitioner had made over-writing in the rent / lease agreement regarding Vibratory Roller, moreover, the lease agreement regarding water-tanker produced by petitioner contained forged signature of the lessor, namely, Uma Shankar Singh Rawat. Thus, according to him, petitioner was disqualified from participating in the tender process in view of the condition contained in Clause 4.7 of the Standard Bidding Document. Regarding the third ground of rejection, Mr. Chauhan, learned counsel for respondent Nos. 1 and 2, fairly submits that petitioner produced a certificate issued by Executive Engineer, however, the said Certificate is not on the letter-head, which is a minor discrepancy and can be ignored. He, however, submits that the fourth ground of rejection is valid, as one Mr. Kapil Dev Nautiyal, shown to be engaged by petitioner as technical person, is in fact a regular employee of Uttarakhand Jal Vidhyut Nigam, and this is in violation of Clause 4.4 B(c) of Standard Bidding Document.

7. We find force in the submissions made by Mr. Chauhan, learned counsel appearing for respondent Nos. 1 & 2. Even if the third ground of rejection is ignored, the other three grounds of rejection of



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petitioner's technical bid are valid and referable to the Notice Inviting Tender and Standard Bidding Document. Thus, rejection of petitioner's bid cannot be termed as arbitrary or illegal.

8. Mr. Chauhan points out that technical bid of petitioner was rejected on 3rd September, 2024 and he has filed this writ petition in the last week of November, after waiting for nearly three months. He further submits that financial bid has also been opened and any interference in the matter at this stage will be against public interest.

9. We are not inclined to interfere in the matter. Since technical bid of petitioner was not as per conditions of the NIT / SBD, therefore, respondent No. 1 was justified in rejecting his bid. The writ petition, thus, fails and is dismissed.

10. Interim order dated 27.11.2024 stands vacated.

MANOJ KUMAR TIWARI, A.C.J.

VIVEK BHARTI SHARMA, J.

Dt: 3rd December, 2024
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