



HIGH COURT OF UTTARAKHAND AT NAINITAL
HON'BLE THE ACTING CHIEF JUSTICE MR. MANOJ
KUMAR TIWARI
AND
HON'BLE SRI JUSTICE VIVEK BHARTI SHARMA
5TH DECEMBER, 2024

WRIT PETITION (MB) NO. 549 Of 2024
R.K. Gupta Contractor Supplier & Civil Contractor
.....Petitioner

Versus

State of Uttarakhand and others. Respondents

Counsel for the petitioner	:	Mr. Shobhit Saharia, learned counsel.
Counsel for the respondents	:	Mr. B.S. Parihar, learned Standing Counsel for the State of Uttarakhand. Mr. S.S. Chauhan, learned counsel for respondent Nos. 2 & 3. Ms. Snigdha Tiwari, learned counsel for respondent No. 4.

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

1. Notice Inviting Tender was issued by Uttarakhand Rural Road Development Agency for upgradation of various roads, including Tikochi Duchanu Kiranu Sirtoli motor road. As many as seven bids were received for the aforesaid motor road, including that of petitioner and respondent No. 4.
2. Initially, five bidders were found to be technically non-responsive, including petitioner and respondent No. 4. Subsequently, the technical bids of petitioner and respondent No. 4 were found to be responsive.
3. In this writ petition, petitioner contends that the



technical bid of respondent No. 4 could not have been declared responsive, as the Department has not considered import of the condition mentioned in Clause 4.4C of Instructions to Bidders, which is a part of Standard Bidding Document. Clause 4.4C, referred to above, is extracted below:-

“4.4 C To qualify for a package of contracts made up of this and other contracts for which bids are invited in the Notice Inviting Tender, the bidder must demonstrate having experience and resource sufficient to meet the aggregate of the qualifying criteria for the individual contracts.”

4. It is contended that since respondent No. 4 has submitted bids for total 14 different packages pursuant to the same NIT, therefore, he does not meet the requirement of Clause 4.4C and his technical bid was liable to be rejected on this ground alone and the Department has erred in declaring his technical bid to be responsive.

5. Per contra, Mr. S.S. Chauhan, learned counsel appearing for Uttarakhand Rural Road Development Agency, submits that the writ petition is without any cause of action, inasmuch as petitioner has not suffered any injury, and the technical bids submitted by petitioner and respondent No. 4 were found to be



responsive and the contract would be given depending upon the price quoted by the bidders, who have been found to be technically responsive and, therefore, the writ petition is not only without any cause of action, but it is also an abuse of process, as petitioner wants to eliminate a competitor from the fray by raising frivolous objections. He further submits that contractors may submit bids for various projects / works and his / her financial capacity would be seen only with reference to the project / work, for which he has been declared to be successful and the contract has finally been awarded.

6. Merely because contractor has submitted bid much beyond his capacity cannot be a ground for declaring him to be technically non-responsive, when he has not been awarded any contract.

7. We find substance in the submission of Mr. S.S. Chauhan, learned counsel appearing for respondent Nos. 2 and 3, that petitioner has not suffered any legal injury as yet and he has been declared to be technically responsive and contract would be awarded only after opening of price quoted by bidders, which stage is yet to arrive.



8. We are, therefore, not inclined to entertain this writ petition at this stage. The writ petition, thus, fails and is dismissed.

MANOJ KUMAR TIWARI, A.C.J.

VIVEK BHARTI SHARMA, J.

Dt: 5th December, 2024
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