



2026:UHC:2582-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA
AND

HON'BLE SHRI JUSTICE SUBHASH UPADHYAY

09TH APRIL, 2026

WRIT PETITION (M/S) No. 1122 OF 2021

Praveen Kumar.

...Petitioner

Versus

State of Uttarakhand and others.

...Respondents

Counsel for the petitioner. : Mr. Pooran Singh Rawat, learned counsel.

Counsel for the respondents. : Mr. B.P.S. Mer, learned Standing Counsel
for the State of Uttarakhand.

JUDGMENT : (per Shri Manoj Kumar Gupta, C.J.)

Amendment Application (IA No. 03/2021)

1. Heard learned counsel for the parties.
2. Although time was granted to the respondents to file objection to the Amendment Application, but no objection has been filed. There is also no opposition to the Amendment Application.
3. Accordingly, the Amendment Application is allowed. Amendments be incorporated during the course of the day.

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4. Learned Standing Counsel for the State of Uttarakhand/ respondents states that counter affidavit of the



State-respondents is already on record, and the matter can be heard finally.

5. Having regard to the aforesaid stand of the learned Standing Counsel, we have heard the matter finally.

6. The petitioner participated in a tender process for a mining lease, in respect of Plot No. 1, Village Daulatpur Hazratpur @ Budhwashahid, Tehsil Bhagwanpur, District Haridwar held on 05.01.2021, as per the Uttarakhand River Training Policy, 2020. The bid of the petitioner for a sum of Rs. 2,09,20,000/- was the highest and he was declared the successful bidder. The petitioner deposited one-fourth of the bid amount, i.e. Rs. 52,30,000/-, by means of different demand drafts, as per Condition No. 2 of the tender process. The remaining 75% amount was to be deposited within three days from the date of acceptance of the bid.

7. The case of the petitioner is that the Supreme Court, in Special Leave to Appeal (C) No(s). 15178/2020, arising out of an order dated 07.12.2020, passed by this Court in a PIL questioning the Uttarakhand River Training Policy, 2020, granted an interim order on 05.01.2021, restraining the successful bidder(s) from removing any minor minerals from the River Bed or adjoining areas. The petitioner came to know of the said order through newspapers, and, therefore, on



07.01.2021, he enquired from the respondents, by sending a message on the mobile phone of the respondents, to guide him in respect of the interim order passed by the Supreme Court. On 23.02.2021, he filed another application before District Magistrate, Haridwar praying for issuance of work order so that the remaining amount is deposited. On the other hand, the respondents kept issuing notices to the petitioner to deposit the remaining amount. The case of the petitioner is that he did not get any response from the respondents, therefore, believing that the interim order puts a bar on all mining activities, he did not deposit the remaining 75% of the amount. The respondents advertised the same lot on 10.06.2021, and aggrieved thereby, the petitioner preferred the instant Writ Petition.

8. The petitioner, during pendency of the Writ Petition, by means of an Amendment Application, has also assailed the order of the Additional District Magistrate, Finance and Revenue dated 10.06.2021, passed in his capacity as Chairman of the Auction Committee, whereby Rs. 6,00,000/- and Rs. 52,30,000/- deposited by the petitioner, by way of earnest money and one-fourth of the bid amount have been forfeited, on the ground that the petitioner had failed to



deposit the remaining 75% of the amount, as per Condition No. 2 of the tender document.

9. On 17.06.2021, an order of *status quo* was passed and, thereafter, on 21.06.2021, the respondents were restrained from taking any further steps in pursuance of the impugned notice dated 03.06.2021, and advertisement dated 10.06.2021. By notice dated 03.06.2021, the respondents required the petitioner to deposit the remaining amount, and start the work under the contract, failing which the earnest money would be forfeited.

10. Learned counsel for the petitioner submits that the petitioner did not deposit the remaining amount, as it was never clarified by the respondents that the interim order granted by the Supreme Court was not in relation to the mining work granted to the petitioner. He further submits that in the counter affidavit itself, the respondents have accepted that they had sought legal opinion from the District Government Counsel, and the same was provided to them on 03.02.2021, but still they did not clarify their stand, but only kept on issuing notices to the petitioner to deposit the remaining amount. Thus, the submission is that the petitioner remained under confusion, since the department also did not give any clarification. Therefore, the forfeiture of the earnest



money and one-fourth of the bid amount was wholly arbitrary and a result of colourable exercise of power.

11. Learned Standing Counsel for the State of Uttarakhand/ respondents vehemently submitted that the remaining amount, as per Condition No. 2 of the advertisement, was to be deposited within three days from the date the contract is approved, and since the petitioner failed to deposit the amount within such time, the respondents are justified in forfeiting the same. He further submits that the interim order of the Supreme Court came to be passed much later and, therefore, the petitioner cannot take any benefit of the said order.

12. The respondents have stated in the counter affidavit that the auction process was completed on 05.01.2021. It is admitted that the petitioner had duly deposited 25% of the bid amount within time. The District Magistrate granted approval to the bid of the petitioner on 18.02.2021, as recorded in the impugned order dated 10.06.2021. The order of the Supreme Court, in Special Leave to Appeal (C) No(s). 15178/2020, is dated 05.01.2021. It is as follows :-

"Issue notice.

In the meantime, there shall be a limited interim injunction restraining the successful bidder(s) from removing any minor minerals from the River Bed or adjoining areas."



13. It is clear from Annexure No. 4 that on 07.01.2021, the petitioner inquired from the respondents, as regards the interim order passed by the Supreme Court, so that he may deposit the remaining amount. In the counter affidavit filed by the respondents, there is no specific reply given by the respondents to the categorical pleading regarding inquiry made by the petitioner, on basis of the news items, from the respondents.

14. It is also evident from the counter affidavit that the respondents themselves were under confusion regarding the applicability of the interim order to the tender in question and, therefore, they sought legal opinion from the District Government Counsel. He is stated to have given legal opinion on 03.02.2021. There is no indication in the counter affidavit, that after obtaining legal opinion, the respondents issued any clarification to the petitioner. The respondents, on the other hand, kept issuing notices to the petitioner to deposit the remaining amount. Thereafter, by order dated 10.06.2021, the earnest money and one-fourth of the bid amount have been forfeited, relying on Condition No. 2 of the advertisement.

15. As we find that there was *bona fide* confusion regarding applicability of the interim order of the Supreme



Court, and the respondents themselves were not sure about the applicability of the said order to the contract in question, and also did not provide any clarification to the petitioner, therefore, in the peculiar facts and circumstances of the instant case, it cannot be said that there was any deliberate default on part of the petitioner in depositing the remaining amount, as per Condition No. 2 of the advertisement.

16. Therefore, we are of the opinion that the action of the respondents, in forfeiting the earnest money and one-fourth of the bid amount, taking recourse to Condition No. 2 of the advertisement, is wholly illegal and is a result of arbitrary exercise of power. At the same time, as considerable time has already passed, therefore, we permit the respondents to issue fresh auction notice, if there is no legal impediment. The earnest money and one-fourth of the bid amount, forfeited on basis of the impugned order, shall be refunded to the petitioner within four weeks from today. As a consequence, the order passed by the Additional District Magistrate, Finance and Revenue dated 10.06.2021, shall stand quashed and set-aside.

17. The Writ Petition stands allowed to the extent indicated above.



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18. All pending applications stand disposed of accordingly.

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dt: 09th April, 2026
Rahul

RAHUL
PRAJAPATI