

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.281 of 2015

Sri Bidyut Saha,
S/o. Shri Brajadulal Saha,
Resident of Rajarbag, Udaypur (R.K. Pur),
District- Gomati, Tripura.

.....Petitioner.

- *Vs* -

- 1. The State of Tripura,**
Represented by the Secretary,
Department of Horticulture and
Soil Conservation, New Secretariat
Complex, Kunjaban, Agartala,
Pin-799006.
- 2. Director,**
Horticulture and Soil Conservation,
Government of Tripura, Paradise Chowmuhan,
Agartala, Tripura- West, Pin- 799001.
- 3. Superintendent of Horticulture
and Soil Conservation,**
Sonamura, District-Sipahijala.

.....Respondents.

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
THE HON'BLE MR. JUSTICE S. TALAPATRA**

For the petitioner	:	Mr. R. Saha, Advocate. Mr. D. J. Saha, Advocate.
For the respondents	:	Mr. B.C. Das, Advocate General Mr. N. Majumder, Advocate.
Date of hearing & delivery of Judgment & Order	:	07.9.2015.
Whether fit for reporting	:	No.

JUDGMENT & ORDER (ORAL)

This petition has been filed praying that the tender issued on 18th June, 2015 was wrongly cancelled despite the fact that the petitioner was lowest tenderer and the petitioner has challenged the issuance of fresh tender on 30th June, 2015 and the award of the said tender.

2. Briefly stated, the facts of the case are that the Department of Agriculture, respondent No. 3 herein, issued Notice Inviting Quotation (NIQ) for quoting rates for transportation of material from the Main Seed Center, Melagarh, Jumerdhepa Government Garden, Paharpur Government Garden, Microsa TCO and Taibandal TCO to various destinations and stores.

3. The first tender was floated on 28th May, 2015 but these tenders were cancelled and there is no dispute with regard to the cancellation of these tenders. Second tender was floated on 18th June, 2015 and short notice was given by publication in one newspaper. Tenders were to be submitted by 25th June, 2015. The petitioner, his mother Smt. Anita Saha and three others persons submitted tenders. The tenders of all the other three persons were found to be informal and only the tenders of the petitioner and his mother were considered. Thereafter, the tenders were opened in presence of the parties on 25th June, 2015. Undoubtedly, the petitioner was the lowest tenderer. However, there is a note of 27th June, 2015 in which it is mentioned that only Smt. Anita Saha and Shri. Bidyut Saha submitted Income Tax clearance certificates along

with their tender documents but the rates quoted by them seemed to be excessively high and not reasonable. Thereafter, the higher authorities examined this note and came to the conclusion that the rates quoted by the petitioner were very high and the Director of Horticulture, i.e. the respondent No. 2 herein, took a decision to cancel the tenders. The matter was urgent in nature since this work is seasonal and it was decided that short notice inviting tenders be called only involving the Primary Marketing Co-Operative Society/LAMPS/PACS etc. to settle the rates within three days.

4. The notice invited quotations issued on 18th June, 2015 was sought to be cancelled and cancellation of the same was ordered on 30th June, 2015. However, no intimation of the same was given to the petitioner till 15th July, 2015. On 3rd July, 2015 the Society to whom the tender has been awarded was called for negotiation and negotiations were held and finally the tender was awarded to this party on 15th July, 2015. On the same date a communication was received by the petitioner and on this very date the petitioner withdrew the earnest money.

5. The writ petition was filed on 16th July, 2015 and was listed before this Court on 20th July, 2015. No doubt the affidavit in support of the petitioner is dated 12th July, 2015 but before the writ petition was filed the petitioner had taken back his earnest money. On 20th July, 2015 we were not informed that he had taken back his earnest money. The petitioner has laid challenge to the cancellation of the tender and his main grounds of challenge are twofold:-

- (i) That the tender was cancelled behind his back and he was not informed about the cancellation;

and

- (ii) That no proper notice of fresh tender was issued and notices were only issued by placing it on the notice board.

6. As far as the first submission is concerned, we are in agreement with the petitioner that he should have been informed about the cancellation. Since cancellation took place on 30th June, 2015 the Department would have been well advised to have informed the petitioner immediately about the cancellation of the tender. However, with regard to the reasons for cancellation, we are not in agreement with the petitioner. We find from the record that the rates quoted by the petitioner were abnormally high. To give some examples for certain transportation the rate quoted by the petitioner was Rs.1,823/- whereas the Melagarh Co-Operative Society which was finally awarded the tender has only quoted Rs.575/- and after negotiation it had agreed to charge Rs.563/-. Similarly, there are other instances where the rates charged by the petitioner are Rs.2,551/-, Rs.951/-, Rs.2,551/-, Rs.2,671/- and Rs.3,251/- and the rate at which the Melagarh Co-Operative Society has finally agreed to are Rs.1,020/-, Rs.980/-, Rs.545/-, Rs.1,400/-, Rs.2,250/- and Rs.2,400/-.

7. The differences are not small. In some cases, the petitioner had quoted the rate which is more than three times higher than the rate which is finally being charged. In dealing with writ

petitions we have to look at the larger public interest also. We cannot say that the officer who made the note that the tender rates quoted by the petitioner are highly excessive made a wrong note. His noting is totally justified and this fact is proved from the rates finally agreed to by the Melagarh Co-Operative Society, which obviously also still must be earning some profit after charging these low rates.

8. Therefore, though we are in agreement with the petitioner that the Department should have been better advised to have informed the petitioner about the cancellation in time, we are not inclined to grant any relief to the petitioner. We are also not inclined to grant relief to the petitioner because on 20th July, 2015 when the matter was listed before us and by this date the petitioner had already received the earnest money back, he did not inform this Court about the receipt of the same.

9. We, therefore, find no merit in this writ petition and the same is accordingly dismissed and the stay order passed earlier stands vacated. No order as to costs.

JUDGE

CHIEF JUSTICE