

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No. 17 of 2015

Punya Coal Roadlines through its Proprietor vs. Western Coal Fields Limited,
Coal Estate, Civil Lines, Nagpur and another.

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

Mr. M.G.Bhangde, Senior Advocate with
Mr. V.V.Bhangde, Adv. for the petitioner.
Mr. S.P.Dharmadhikari, Senior Advocate
with Mr. M. Anilkumar Adv, for respondents.

CORAM: B.R.GAVAI &
MRS. MRIDULA R. BHATKAR,JJ
DATE : 26.2.2015

The petitioner is basically aggrieved by the action of the respondent authority in refusing to open the price bid of the petitioner. Certain dates relevant for consideration of the present petition, are as under:

2. The tender notice in question for transportation of coal overburden was issued on 16th July, 2014. The bids were opened on 22nd September, 2014. According to the petitioner,

the petitioner was successful in the said bid. The bids were opened on 19.12.2014. However, the petitioner's bid was not opened on the ground that the petitioner stood debarred on 10.11.2014.

3. Mr. Bhangde, learned Senior Counsel for the petitioner states that the petitioner is aware about the lowest bids of the bidders, whose bids are opened and that of the petitioner. He submits that the petitioner's bid is less than the bids of the lowest bidder, whose bids were opened at least by two crores.

4. The learned Senior Counsel submits that since the petitioner is debarred on 10.11.2014 and the tender in question is dated 16.7.2014 and in view of the specific words 'in future', the petitioner can by no stretch of imagination be debarred with regard to the tender dated 16.7.2014.

5. The learned Senior Counsel further submits that as a matter of fact in another area the petitioner has already been granted a contract on 19.11.2014. The learned Senior Counsel submits that the respondent which is a State within Article 12

cannot be permitted to apply different yard stick. He submits that in another area when the contract is granted even after debarment and in one area it is rejected on the debarment.

6. Insofar as the second contention is concerned, Mr. S.P.Dharmadhikari, the learned Senior Counsel on instruction of Mr. C. Jagan, Chief Manager (Civil), who is personally present in the court, orally states that the order of debarment is dated 10.11.2014. However, the same had not reached Umred area of the respondent till 19.11.2014 and as such the contract came to be awarded erroneously in Umred area.

7. In that view of the matter, accepting the statement made by Mr. S.P.Dharmadhikari, the learned Senior Counsel on instructions of the said responsible officer of the respondent, we do not find any reason to interfere on that ground. Merely because an error has been committed in one area, cannot be a ground to say that error should be repeated in another area also.

8. Insofar as the first submission is concerned, apart

from the law, we find that the said submission is against the common sense logic. When a particular contractor's conduct has been found to be of such nature that the authority finds it impossible to continue with him and which conduct has been also found to be of such a nature by this court and when this court has specifically refused to interfere with the discretion exercised by the authority in cancelling of earlier contract and debarring it for three years, thrusting such a contractor on the authority of the State, in our view, would be against any logic and in any case against the public interest.

9. In that view of the matter, no case is made out for interference. The petition is rejected.

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