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

WRIT PETITION NO.4226 OF 2016

[Blue Lagoon through its partner Shri Shail Sheth .vs. Nagpur Improvement Trust, Nagpur and one]

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Shri Anand Parchure, counsel for the petitioner,
Shri M.V. Samarth, counsel for respondent no.1,
Shri D.A. Mahajan, counsel for respondent no.2.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : NOVEMBER 23, 2016.

By this writ petition, the petitioner challenges the communication of the respondent-Nagpur Improvement Trust, rejecting the bid of the petitioner, dated 5.4.2016 on the ground that the petitioner had not submitted the VAT Clearance Certificate up till 30.9.2015, along with the application.

The Nagpur Improvement Trust had invited tenders from registered Contractors for design, supply, installation, testing, commissioning filtration plant of Nagpur Improvement Trust swimming pool at North Ambazari, Nagpur on 5.4.2016. According to the tender notice, sealed percentage rate and item rate e-tenders were invited from registered Contractors along with VAT Clearance Certificate up till 30.9.2015, as per eligibility, for various development works. Admittedly, the petitioner-company did not submit the VAT Clearance Certificate up till 30.9.2015 along with tender. The technical bid of the petitioner was, therefore, rejected and the petitioner was informed about the same by the impugned communication. The petitioner has challenged the action on the part of the Nagpur Improvement Trust, of rejection of the technical bid of the petitioner.

Shri Parchure, the learned counsel for the petitioner, submitted that in the qualification criteria for swimming pool filtration accessories, there is no mention that the VAT Clearance Certificate up till 30.9.2015 would be required. It is submitted that the petitioner carries on the business in the State of Gujarat and in the State of Gujarat, no VAT Clearance Certificate is issued. It is submitted that in the absence of any mention in the qualification criteria that the VAT Clearance Certificate should be submitted along with the tender, the technical bid of the petitioner could not have been rejected.

Shri Samarth, the learned counsel for the respondent no.1-Nagpur Improvement Trust, submitted that it is clearly mentioned in the tender notice that sealed percentage rate and item rate e-tenders are invited from registered Contractors along with VAT Clearance Certificate up till 30.9.2015, as per eligibility for various development works. It is submitted that it is apparent from the tender notice that it was necessary for the tenderers to submit the VAT Clearance Certificate up till 30.9.2015, along with the tender. It is submitted that the petitioner did not submit the VAT Clearance Certificate along with the tender and secured the same from the Commercial Tax Officer, Unit-2, Ahmedabad on 20.7.2016. It is stated that the Commercial Tax Clearance Certificate, dated 20.7.2016, clearly shows that the case of the petitioner that in the State of Gujarat, VAT Clearance Certificate is not issued is incorrect.

It is apparent from a reading of the tender notice that it was necessary for every tenderer desirous of participating in the tender process initiated by the e-tender notice, dated 5.4.2016, to submit a VAT Clearance Certificate up to 30.9.2015 along with the sealed percentage rate and item rate e-tenders. It is apparent that it was necessary for the petitioner to submit the VAT Clearance Certificate along with the technical bid, if the petitioner desired to participate in the tender. Admittedly, the petitioner did not submit the VAT Clearance Certificate along with the tender, to the Nagpur Improvement Trust. The technical bid of the petitioner was rightly rejected by the Nagpur Improvement Trust in the absence of the VAT Clearance Certificate in the technical bid. The case of the petitioner that in the State of Gujarat, no VAT Clearance Certificate is issued appears to be incorrect, as it is apparent from the Commercial Tax Clearance Certificate issued in favour of the petitioner by the Commercial Tax Officer at Ahmedabad that VAT Clearance Certificates are issued in the State of Gujarat.

In the circumstances of the case, the respondent-Nagpur Improvement Trust was justified in rejecting the technical bid of the petitioner.

Since the technical bid was rightly rejected, we dismiss the writ petition with no order as to costs.

JUDGE JUDGE

Gulande, PA