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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No. 1798 of 2017

Satwinder Singh Domir @ Satwinder Pal Singh Domir S/o Uttam Singh Domir, Aged About 36 Years R/o Chandela Nagar, M I G A - 39, Mungeli, Tahsil Mungeli, District Mungeli, Chhattisgarh.

---- **Petitioner**

Versus

1. Chhattisgarh State Civil Supplies Corporation Limited, Through It's Managing Director, Hitvad Bhawan, Awanti Vihar, Telibandha, Raipur, Tahsil Raipur, District Raipur, Chhattisgarh.
2. Tender Evaluation Committee, Through The District Manager, Chhattisgarh State Civil Supplies Corporation Limited, Mungeli, Tahsil & District Mungeli, Chhattisgarh.
3. State of Chhattisgarh, Through Its Principal Secretary, Department Of Food, Civil Supplies & Consumer Protection, Govt. Of Chhattisgarh, Mantralaya, Naya Raipur Capital Complex, Tahsil Raipur, District Raipur, Chhattisgarh.
4. Dharmendra Kumar Waswani, (Bidder In The Tender No. 17759 Base Depot Mungeli) Through The District Manager, Chhattisgarh State Civil Supplies Corporation Limited, Mungeli Tahsil & District Mungeli, Chhattisgarh.
5. Jitendra Kumar Uppal, (Bidder In The Tender No. 17759 Base Depot Mungeli) Through The District Manager, Chhattisgarh State Civil Supplies Corporation Limited, Mungeli Tahsil & District Mungeli, Chhattisgarh.

---- **Respondents**

For Petitioner	: Shri Rajkamal Singh, Advocate
For Respondents No.1 &2	: Shri N.K. Vyas, Advocate
For State	: Shri UNS Deo, Govt. Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Sharad Kumar Gupta, Judge

Order On Board

Per Thottathil B. Radhakrishnan, Chief Justice

18/07/2017

1. Heard learned counsel for the petitioner, the learned counsel for the respondents No. 1 & 2 and the learned counsel for State Government.
2. E-tenders were invited by the first respondent-Chhattisgarh Civil Supplies Corporation (for short, '*the Corporation*') for providing Heavy Transport Vehicles to its different Depots. The second respondent is the Tender Evaluation Committee. The tender procedure is two fold. There is a technical bid and the financial bid. The financial bid of those who succeed in the technical bid would be considered.
3. The petitioner pleads that he participated in the e-tender by submitting bid for work as regards the Mungeli Godown of the Corporation. The writ petition was filed on 23rd June 2017 pleading that on 21st June 2017 the petitioner came to know that his price bid is not going to be opened. During the pendency of the writ petition, the Corporation awarded the work to two other persons who had reached the stage of financial bid by clearing the technical bid. Since both of them had quoted the same rate, the work in relation to Mungeli Godown was awarded to them in equal share. Pursuant to that, the writ petition was amended impleading those persons to whom the work was awarded. However, it does not appear that notice was issued to them.
4. Be that as it may, going by the pleadings of the petitioner and the Corporation, the dispute sought to be raised are to be determined by deciding the rival contentions regarding the consideration of technical bid. The prescriptions in the NIT (Notice Inviting Tenders) cannot be impeached by the petitioner, he having submitted himself to it by participating in that process. It is the prescription in the NIT that an

Undertaking in the format prescribed by the Corporation and provided as part of the Tender Form, have to be given along with the technical bid. A different Undertaking; for which also a format is prescribed; is to be furnished along with the financial bid. Even the copy of the petitioner's tender as produced along with the writ petition shows that the so-called Undertaking submitted by him along with the technical bid does not contain the identity of Godown of the Corporation for which the petitioner was quoting. The Corporation and the second respondent-Technical Evaluation Committee were not satisfied with the tender documents at the technical bid stage because the requisite undertaking in the prescribed form on stamp paper duly notarized did not reflect the name of the Depot of the first respondent in relation to which the vehicles covered by the petitioner's bid were being offered. That being the factual situation and the matter also being in the realm of contract, we see no reason to interfere with the decision of the Corporation and the second respondent-Technical Evaluation Committee to exclude the petitioner after the stage of consideration of the technical bid. Merely because the Undertaking submitted by the petitioner along with his financial bid indicates that it is in relation to the Mungeli Depot, we cannot hold the Corporation to be at fault because respondents No. 1 and 2 could not have deviated from their prescriptions and, more importantly since the financial bids are to be opened only after the stage of evaluation and results of the technical bids. In this situation, the petitioner's plea that his case was not cleared at the technical bid stage on the ground that the vehicle in possession of the petitioner was a Tipper and not an open carriage is of no consequence.

5. This writ petition therefore fails and is hence dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge

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