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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No. 3516 of 2017

- M/s Suraj Associates, through Its Proprietor Vasudev Prasad Gupta, aged about 57 years, S/o Ramswarup Gupta, Resident of Opposite to Panchvati Colony, A.B. Road, Bhohadapur, Lashkar, Gwalior, (M.P.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Principal Secretary: Department of Health and Family Welfare, Government of C.G., Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
2. Managing Director, C.G. Medical Services Corporation Ltd. (CGMSC), Third Floor, Govind Sarang Vyavasayik Parisar, New Rajendra Nagar, Raipur (C.G.)
3. General Manager- Technical, C.G. Medical Services Corporation Ltd. (CGMSC), Third Floor, Govind Sarang Vyavasayik Parisar, New Rajendra Nagar, Raipur (C.G.)
4. C.G. Infotech Promotion Society (CHIPS) through its Chief Executive Officer, Third Floor, State Data Centre, Building, Opposite, New Circuit House, Civil Lines, Raipur (C.G.)
5. Jaikumar Pankaj Kumar, Loha Bazar, Bhopal (M.P.

---- Respondents

For Petitioner	:	Shri V.C. Ottalwar and Shri Akhtar Hussain, Advocates
For State/Respondent No.1	:	Shri Prafull Bharat, Additional Advocate General
For Respondents 2 to 4	:	Shri C.J.K. Rao, 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

08/02/2018

1. Heard the learned counsel for the Petitioner, the learned Additional Advocate General for Respondent No.1 and the learned counsel for Respondents 2 to 4.

2. The Petitioner was one among the bidders who responded to an invitation of offers for supply of Raw Ayurvedic Supplies. The Chhattisgarh Medical Services Corporation (CGMSC) would make the purchase upon clearance from the Department of Health and Family Welfare and make the materials available for use in the Government Sector Ayurvedic Hospital.

3. The bid of the Petitioner was found defective since uploaded sales tax clearance certificate was not clearly visible. That is a deficiency found in Cover-A documents. That is recorded in the summary sheet of Cover-A prepared on 05.04.2017. The Petitioner did not rectify the defect by 17.04.2017. Instead, it can be seen from Annexure-P/5, that on 20.04.2017 an e-mail was sent regarding the sales tax clearance. There is dispute between the parties as to whether that was uploaded in the requisite site.

4. Keeping the aforesaid issue aside, it needs to be noted that even if no action followed thereafter, the Petitioner did not choose to move this Court seeking any relief in relation to propose to supply contract until the institution of this writ petition on 12.12.2017. He now attempts to point out that yet another bidder who had more number of defects in Cover-A proceedings had obtained directions from this Court through Annexure-P/6 judgment in W.P.(C) No. 1409 of 2017 and if similar approach is adopted, the Petitioner's bid could also be considered. We are afraid that the said plea of the Petitioner cannot be accepted. For one thing, the judgment in W.P.(C) No. 1409 of 2017 was issued by this Court on 30.06.2017. Even by that time, nearly two months had elapsed after the Petitioner had submitted the sales tax clearance certificate, that too beyond the extended time. Not only that, the contents of Annexure-P/6 judgment will show that the said decision was rendered and issued having regard to the very peculiar and particular fact situation available as on the date of consideration of that

case. One of the major factors that weighed then was that the financial bid was not opened by the CGMSC and it would be within its commercial interest to permit the financial bid of the Petitioner in the case also to be opened. Thereafter, five months have gone through by the time the writ petition in hand was instituted. By now, the CGMSC has finalized the final bid and have also placed purchase orders with the approval of the competent authority in the Department of the Health and Family Welfare, Government of Chhattisgarh. Under such circumstances, it will be unjust if we apply Annexure-P/6 to the fact situation now in hand and grant of relief to the Petitioner. Even otherwise, this writ petition cannot be entertained at the belated time fact and in relation to the non-consideration of the Petitioner's the financial bid for a supply contract. This writ petition, therefore, fails.

5. In the result, the writ petition is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge

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