

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3145 of 2019**

ECL AGROTECH LIMITED Through Its Authorized Signatory Shri Ram Kesh Singh, 43 Years, S/o Shri Govind Singh, R/o 190, Capital City Phase- 1, Vidhan Sabha Road, Saddu, Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. C. G. State Seed And Agriculture Development Corporation Limited Through Its Managing Director, Address - Beej Bhawan, Ravigram, Telibandha, Raipur, Chhattisgarh.
2. State of Chhattisgarh Through The Secretary, Department of Agriculture, Mahanadi Bhawan, Atal Nagar, New Raipur, Chhattisgarh.
3. M/s West Bengal Hybrid Seeds And Bio-Tech P. Ltd. Through Its Director, Address - 181/35, Dakshindari Road, Kolkata, West Bengal.
4. M/s Indo Us Bio-Tech Ltd. Through Its Director, 309,/shanti Mall, Opposite Navrang Tower, Satadhar, Char Rasta, Ghatlodiya, Ahemdabad, Gujrat.
5. M/s Jk Agri Genetics Ltd. Through Its Director, 4th Floor, Varun Towers, Begumpet, Hyderabad.
6. M/s Trimurti Plant Sciences P. Ltd Through Its Director, Mgr Estates, Dwarikapuri Colony, Punjaguta, Hyderabad, 500082
7. M/s Nirmal Seeds Pvt. Ltd. Through Its Director, Sambhav Warehouse, Ring Road No. 2, Sondongri, Raipur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Sharad Mishra, Advocate.
For Respondent No.1	: Shri Animesh Tiwari, Advocate.
For Respondent/State	: Shri Siddharth Dubey, Deputy Govt. Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****P. R. Ramachandra Menon, Chief Justice****03.10.2019**

1. Rejection of the technical bid submitted by the Petitioner made them to approach this Court with the following prayers :-

“10.1 That, this Hon,ble Court may Kindly be pleased to allow the present writ petition and direct the Respondent No. 1 to produce entire records of the present case.

10.2 That, this Hon,ble Court may kindly be pleased to issue an appropriate writ /order/direction to Respondent No. 1 more particularly the one in the nature of Writ of Mandamus thereby directing Respondent No. 1 to reconsider the bid of the petitioner on merits and if, petitioner fulfills all the requisite qualification, then, tender/contract may be awarded/allotted to petitioner as well.

10.3 That, any other order/relief which this Hon,ble Court may deem fit, proper and just in the facts and circumstances of the present case may also kindly be awarded to the petitioner in the ends of justice & equity.

10.4 That, the cost of the petition may kindly also be awarded to the petitioner.”

2. Heard the learned counsel appearing for both the sides.
3. The sequence of events reveals that Annexure P/3 'Notice Inviting Tender' was issued by the 1st Respondent for supply of “Vegetable Hybrid Seeds/Certified Oil Seeds” notifying the terms and conditions in detail. The tender was to be submitted by the qualified persons by way of two separate proceedings i.e. “Technical Bid and Price Bid” respectively. The bid submission date was to be opened on 14.05.2019 and the last date for submission of the bid was 10.06.2019. The technical bid was to be opened on 12.06.2019 and the price bid was to be opened on 18.06.2019. In the case of the Petitioner herein, even though he participated in the tender proceeding by submitting the bid, all necessary documents were not

uploaded, particularly, the R & D certificate issued by the competent authority as insisted at condition No.9.

4. The grievance of the Petitioner is that the relevant certificate already issued by the Ministry, was to be valid till 31.03.2019 and the Petitioner had prepared application before the competent authority for getting it renewed on 28.12.2018, as revealed from Annexure P/5. The certificate came to be renewed by the Ministry only later on 27.06.2019 and this fact was brought to the notice of the 1st Respondent who however did not pay any heed to it and the proceedings were finalized by awarding the tender in favour of the private Respondent, which is sought to be interdicted.
5. Learned counsel appearing for the 1st Respondent submits that the tender conditions were quite categoric, providing a check list as to the various documents to be included as part of the proceedings, so as to have the tender finalized. Admittedly, the Petitioner did not produce the R & D certificate, as it had already expired on 31.03.2019. No certificate was produced along with the tender or even on the date of consideration of the bids and as such, there is no fault on the part of the 1st Respondent in rejecting the technical bid for not satisfying the requirements as notified in the tender condition. The learned counsel also points out that, there is no basis in the submission that no reason was let known to the Petitioner for rejecting of his technical bid; asserting that the reason with regard to non-submission of R & D certificate, was clearly brought to the knowledge of the Petitioner by e-mail dated 08.07.2019.
6. The learned counsel for the Petitioner submits that on receipt of said e-

mail, the position was clarified by the Petitioner, pointing out that renewal of certificate has already been issued by the competent authority as mentioned above. The Petitioner having replied to the e-mail on the very next day, it was not correct or proper for the 1st Respondent to have rejected the technical bid; submits the learned counsel.

7. After hearing both the side, we find it difficult to accept the position mooted by the Petitioner. The communication issued by the 1st Respondent on 08.07.2019 by e-mail was not for producing the certificate or for curing the defects, but it was with regard to the 'reason' for rejection of the technical bid. The technical bid was rejected for non-submission of R & D certificate, which is a mandatory requirement as per condition No.9 of Annexure P/3 tender. Insofar as the factual position in this regard is conceded and the R & D certificate was got renewed only subsequently, (though the Petitioner had made a valid application for renewal of the certificate way back in December 2018), it remains a fact that the Petitioner did not move by way of appropriate course to get the validity of the certificate acted upon by the Ministry by approaching this Court or such other authorities, so as to enable him to have obtained the renewal certificate before expiry the validity period i.e. on 31.03.2019.
8. In the said circumstance, we do not find it to be a fit case to call for any interference. The writ petition fails and the same is dismissed accordingly.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge