

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2641 of 2018**

- M/s Sharad Singh Through Its Partner Abhay Singh Aged About 43 Years. S/o Late R. M. Singh R/o A/102 National Apartment Abhiyanta Bhawan Gali, Bilaspur, District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Panchayat And Rural Development Department Mantralaya Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh.
2. Executive Engineer Rural Engineering Services, Janjgir District Janjgir Champa, Chhattisgarh.
3. M/s Asian Buildcon C-5, Shree Sai Plaza, 2nd Floor, Link Road, Bilaspur, Chhattisgarh.

---- Respondent

For Petitioner : Shri Bharat Kumar Gulabani, Advocate.
For Respondent/State : Shri R.S. Baghel, Deputy AG.
Shri Shailesh Kumar Soni, Project Manager (e-proc),
Chips with Shri Jay Prakash Prajapati are present in
the Court.

**Hon'ble Shri Prashant Kumar Mishra, Ag. C.J. &
Hon'ble Shri Parth Prateem Sahu, J**

Order On Board By Prashant Kumar Mishra, Ag CJ

10/04/2019 :

1. The subject tender for internal electrification work under Rs.10 lacs cost building in Block Akaltara, Pamgarh & Nawagarh, having total tender amount of Rs.40 lacs has already been awarded to respondent No.3. It is stated at the Bar that the work under the subject tender is in the

process of execution. However, we have kept this writ petition pending to verify the tender process as to whether financial bid of the petitioner was opened on the date when only technical bid was supposed to be opened by the department.

2. By referring Annexure-P/8, the petitioner tried to convince us that as on the date of opening of technical bid on 20th March, 2018, the petitioner's tender papers were opened by the SAC RES Janjgir Champa and the said officer was aware of the rates quoted by the petitioner. It is submitted that having known that the rates quoted by the petitioner is L-1, the petitioner was declared disqualified even though the awardee was also suffering from technical disqualification.
3. The petitioner's tender has been rejected on the ground that his signatures were not available on Annexures 1 to 3 with tender papers. The petitioner would allege in para-8.4 that some documents submitted by the successful bidder suffered from similar disqualification but yet his bid was opened. To this pleading, the respondent/State has replied that the bid papers of successful bidder was signed by one of the partners and that it did not suffer from any disqualification.
4. Be that as it may, since we are nearing completion of work, which was for a period of one year beginning from 19.4.2018, as also for the reason that the petitioner has not filed any rejoinder on that aspect of the reply filed by the respondents, we are not inclined to enter into dispute concerning eligibility of respondent No.3.
5. Presently, we are only concerned as to whether as on the date of opening of technical bid, the petitioner's financial bid was also opened. However, after interacting with Shri Shailesh Kumar Soni, Project

Manager (e-proc), who represents CHIPS, the organization who has programmed the software on which e-tender process runs, we are satisfied that as on the date of opening of financial bid i.e. on 20th March, 2018, it was only the petitioner who could have decrypted his documents for the purpose of viewing. Every tenderer was provided a digital signature for further use during operation of the tender process. Even the petitioner could not have edited any of the entry filed by him while submitting tender. It is precisely for this reason, he could not have signed over the papers which he had submitted at the time of bid submission. The document (Annexure-P/8) downloaded by the petitioner on 23rd July, 2018 shows that as if SAC RES, Janjgir Champa had seen the petitioner's financial bid on 20th March, 2018, but yet the word "Opened By (User) – SAC RES Janjgir-Champa" should be read along with "Opened On (Date-Time) 20 Mar, 2018", which is the time when technical bid was opened. The word "Opened By" co-relates opening of technical bid and not opening or viewing of financial bid.

6. In the document (Annexure-D/1) filed by the respondents on 12.3.2019, a flow chart of the entire tender process has been annexed. The chart contains details of operation in respect of subject tender which has taken place from time to time. It is clearly reflected therefrom that relevant part of the bid i.e. the technical bid was opened on 20th March, 2018 and quotation details were opened on 11.4.2018. Under the rejected quotation details, the petitioner's name figures with rejected reasons showing as "technically rejected", along with comments which means details of grounds for which tender was not found technically responsive. The financial part bid decryption details carries the name of successful

tenderer only, which means that at the stage of final bid opening, only the successful tenderer was alive in the field.

7. The above discussion would lead us to irresistible conclusion that the financial bid of the petitioner was not opened on the date when his technical bid was opened on 20th March, 2018 and thus the department was not aware of the rates quoted by the petitioner till the financial bid of the successful bidder was opened.
8. There is no substance in the Writ Petition, which fails and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Barve