

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.645 of 2020

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Uttar Pradesh Rajkiya Nirman Nigam Limited through Ved Prakash Srivastav,
Project Manager, Samastipur Unit, Bihar, aged about 52 years, Male, son of
Brijesh Kunwar Srivastav, Resident of- Lekhraj Enclave, Sec- 2, Flat No. 8,
6th Floor, Vikas Nagar, Lucknow.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
Government of Bihar, Patna.
2. The Joint Secretary, Department of Health, Bihar, Patna.
3. The Board of Director, Bihar Medical Services and Infrastructure
Corporation Limited, Patna, 4th Floor, BSBCCCL Building, Hospital Road,
Shastri Nagar, Patna.
4. The Chief General Manager (Project), Bihar Medical Services and
Infrastructure Corporation Limited, Patna, Bihar Medical Services and
Infrastructure Corporation Limited, Patna, 4th Floor, BSBCCCL Building,
Hospital Road, Shastri Nagar, Patna.
5. The General Manager, Bihar Medical Services and Infrastructure
Corporation Limited, Patna, the Joint Secretary, Department of Health,
Bihar, Patna.
6. The Managing Director, Bihar Medical Services and Infrastructure
Corporation Limited, Patna, the Joint Secretary, Department of Health,
Bihar, Patna.
7. The Tender Evaluation Committee, Bihar Medical Services and
Infrastructure Corporation Limited, Patna, through Chief General Manager,
Bihar Medical Services and Infrastructure Corporation Limited, Patna, the
Joint Secretary, Department of Health, Bihar, Patna.
8. Shapoorji Pallonji and Company Limited, P.S. Srijan Corporate Park, Tower-
I, 7th Floor, Plot No. G-2, Block- GP, Sector- V, Salt Lake, Kolkata-
7000091.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv.
Mr. Kundan Kumar, Adv.
For the Respondent/s : Mr. Lalit Kishore, AG
Mr. Birju Prasad, GP-13
For Respondent No. 8 : Mr. Mrigank Mauli, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 18-05-2020

Heard Mr. Y.V. Giri, learned Senior Advocate for the petitioner, Mr. Lalit Kishore, learned Advocate General for the State of Bihar as well as Respondent Nos. 3 to 7 and Mr. Mrigank Mauli, learned Advocate for respondent No. 8.

2. The petitioner, Uttar Pradesh Rajkiya Nirman Nigam Limited, a company registered under the provisions of Indian Companies Act and a Uttar Pradesh Government Undertaking (ISO 9001-2000 Certified), has sought quashing of the decision of the Technical Tender Evaluation Committee of Bihar Medical Services and Infrastructure Corporation Limited, Patna (*hereinafter referred to as the BMSICL*), dated 24.12.2019, whereby the petitioner has been declared disqualified for Item No. 3 of the NIT No. BMSICL/Infra/22/2019 dated 10.06.2019, which decision was taken without appreciating the objections of the petitioner which



was submitted on 19.12.2019 against the notice of disqualification dated 13.12.2019. By the aforesaid order, the petitioner has been non-suited for not having fulfilled the criteria provided in Clause 4.5 (B)(a) of the concerned NIT. Additionally, it has been prayed that the concerned respondents be directed to open the financial tender, grant the award and execute the agreement with respect to Item No. 3 of the NIT relating to construction of Government Medical College & Hospital and campus alongwith B.Sc. Nursing College, Sitamarhi, Bihar, comprising college building, 500 bedded hospital, hostels, faculty and staff residences and other supporting blocks etc. at Mouza - Murarpur, Block - Dumra in the district of Sitamarhi.

3. The reason for making such prayer, it has been asserted, is that the Technical Evaluation Committee has misconstrued the provision contained in Clause 4.5(B)(a) of the concerned NIT and that the petitioner is the lowest bidder who has quoted a rate above 14.49% whereas the respondent No. 8 who has been found technically qualified and responsive to the NIT has quoted a rate about 17.24%.

4. The BMSICL, Patna had floated a tender with respect to six tender works including the work for which the



petitioner has approached this Court. The NIT was issued on 10.06.2019, whereas the tender documents had to be uploaded by 29.07.2019. The physical copies of the tender papers were required to be deposited on 31.07.2019. The date and time for opening of the tender was fixed on 31.07.2019 at 03:30 P.M. on the website www.eproc.bihar.gov.in. The aforesaid date was extended to 19.11.2019.

5. It appears from the records and from the submissions advanced on behalf of the parties that the petitioner submitted its tender for Item Nos. 1, 2, 3, 5 and 6. As noted above, the present writ petition is but confined to the work designated in Serial No. 3, *i.e.*, the work relating to construction of Government Medical College & Hospital and other buildings in the district of Sitamarhi.

6. It is the case of the petitioner that since the last date for uploading the tender document was extended to 19.11.2019, an authorized representative of the company was designated for signing the bid documents and uploading the same. This designation of the officer concerned was by way of power of attorney issued by the petitioner/company.

7. However, the Technical Tender Evaluation Committee found the tender papers of the petitioner with respect



to all the items for which it had applied to be non-responsive by its decision dated 13.12.2019 (*Annexure-3 to the writ petition*). The Committee did not accord sanction for opening the financial bid of the petitioner. By the aforesaid decision, it was also held by the Committee that the decision referred to above be uploaded on the departmental website and if any objection to such decision is filed on or before 23.12.2019 by 05:00 P.M., such objection ought to be brought before the Technical Committee for further consideration.

8. The reason assigned for treating the tender papers of the petitioner to be non-responsive is that the Power of Attorney issued by the company in favour of Mr. V.P. Srivastav, Project Manager, authorizing him to submit tender papers was issued on 16.11.2019, but the affidavit regarding supply of tools and plants (tie-up agreement) was found to be dated 18.09.2019. Such tie-up agreement, which was one of the essential conditions of the NIT, was not signed by any authorized representative of the petitioner/company. However, the uploaded documents, which included the tie-up agreement referred to above, were signed by the authorized representative of the petitioner/company. Apart from this, in the physical/HARD copy submitted by the petitioner, there was no



signature of the authorized representative on the tie-up agreement dated 18.09.2019.

9. Mr. Y.V. Giri, the learned Senior Advocate has drawn the attention of this Court to the fact that the decision of the Tender Evaluation Committee dated 13.12.2019 was uploaded on the official website of BSMICL on 18.12.2019, *i.e.*, after five days of the decision in that regard, leaving the petitioner and other non-responsive bidders with only three working days for submission of their explanation/objections.

10. However, the petitioner/company submitted its explanation/objection on 19.12.2019, but the same was again rejected *vide* decision of the Technical Tender Evaluation Committee dated 24.12.2019.

11. Mr. Giri, while challenging the decision of the Technical Evaluation Committee referred to above has submitted that according to the condition in the Clause 4.5(B)(a) of the NIT, a tenderer was required to obtain/procure mobilization advance or necessary tools/machines and equipments from any third person. The petitioner/company had an agreement with M/S Badri Ray and Company, Station Road, Dibrugarh, Assam promising and affirming that the relevant plants and machinery required for executing the work of the



concerned NIT shall be made available on long term lease/hire basis to the petitioner/company in case the work is awarded to them.

12. The aforesaid agreement was brought on record by the petitioner/company by way of an affidavit of one Arun Kumar Ray, partner and power of attorney holder on behalf of M/S Badri Ray and Company. The details of the machinery/tools/equipments have also been specified in the aforesaid affidavit. The assertion of the petitioner is that such an affidavit is not an agreement, but an *ex-parte* affidavit/undertaking for providing machine on lease or hire basis. Since the last date for submission of tender was 19.11.2019 and an officer of the company was designated by way of power of attorney on 16.11.2019, such power of attorney holder could not have countersigned the tie-up affidavit dated 18.09.2019. However, the tender papers which were uploaded on behalf of the petitioner/company which also included the tie-up agreement dated 18.09.2019, was signed by the designated Project Manager of the petitioner/company. The hard-copy which was received by the aforesaid designated officer of the company was also submitted physically, but it could not be signed inadvertently.



13. In this context, it has been averred that the NIT clearly prescribed that the entire bid shall be considered through E-Procurement. It was thus not justified for the Technical Tender Evaluation Committee to have found the petitioner's papers to be non-responsive, only because the physical copy of one of the documents, viz., the tie-up agreement dated 18.09.2019 could not be signed by the designated officer. The NIT did not prescribe any condition of non-suiting the tenderers/bidders in case of any discrepancy in the documents uploaded and the hard-copy submitted.

14. The other challenge to the decision of the Technical Tender Evaluation Committee is that it has not followed the directions issued by the Road Construction Department, Government of Bihar, Patna which is binding on all the Works Departments and Government tenders, requiring the meeting of Technical Tender Evaluation Committee to be held only after announcing the date in advance so that prospective bidders could appear at the time of evaluation, if desired by them.

15. The last of the objections raised by the petitioner is that on opening the financial bid on 30.12.2019, respondent No. 8 has been declared responsive who has quoted



a rate which is above 17.24%, whereas the petitioner had quoted a rate of 14.49%, which is much lesser.

16. In support of the aforesaid contentions, learned Senior Advocate for the petitioner has drawn the attention of this Court to Clause 12 of the NIT, which specifies the documents which would comprise the bid. Apart from other documents, what was necessarily to be uploaded was the qualification information and supporting documents as specified in Section 2 of Clause 8.1 and certificates, undertakings and affidavits as specified in Section 2 of Clause 8.1. This was to be part of Volume-5 of the bid document. A format provided in Section-2 regarding the qualification information which had to be filled by the bidder has been provided, which *inter alia* in terms of Clause 4.5(B)(a) is as follows:

Descript ion of Items		Requirement		Availability Proposals		Remarks (from whom to be purchased)
	No.	Capacity	Owned/Leased/ to be Procured	Nos./Capacity	Age/Condition	
1	2	3	4	5	6	7

17. The format, referred to above, it has been argued, clearly demonstrates that in Column-4 of the aforesaid format, the owned/leased/to be procured items had to be specified. The last column (Column No. 7) is of “Remarks”



regarding the source from which the equipment would be or has been purchased.

18. According to the aforesaid format, the information with respect to fulfilling the condition under Clause 4.5(B)(a) has been specified by the petitioner/company in the shape of the affidavit, referred to above, which notes down the details of the equipments and the assertion of Mr. Arun Kumar Ray that M/S Badri Ray & Company has those equipments and machineries available with them for deployment to the petitioner/company for construction of Medical College & Hospital, in case the work is awarded. This is an exact information as required under Clause 4.5(B)(a) of the document.

19. Hence, it has been argued, the decision of the Technical Tender Evaluation Committee holding the petitioner's bid to be non-responsive is not sustainable in the eyes of law.

20. Mr. Lalit Kishore, learned Advocate General, who has appeared on behalf of respondent Nos. 1 to 7 has submitted that Clause 4.5(B)(a) gave three options to a tenderer with respect to equipments, viz., that it should either be owned by it or leased or procured against mobilization advances. The petitioner/company did not submit any document relating to any of the options as required under the Clause 4.5(B)(a). The



affidavit of Mr. Arun Kumar Ray uploaded with the tender document is not a bilateral agreement but a personal affidavit.

21. Apart from this, it was also urged by Mr. Lalit Kishore that the petitioner/company had been awarded the work of construction of Ramjanki Medical College & Hospital at Samastipur on 30.10.2019 but till date, the petitioner/company has neither deployed sufficient manpower, tools or plants nor has started the work, which would be evident from a report submitted by supervision consultant. This experience with the petitioner/company has further made the respondents believe that the petitioner/company is not having sufficient resources in terms of tools and machinery so as to be awarded any contract under the tender.

22. The other ground raised by Mr. Lalit Kishore is that the petitioner had challenged the decision by way of filing a writ petition before this Court *vide* C.W.J.C. No. 573 of 2020, which was dismissed as withdrawn on 19.02.2020 by a Bench of this Court.

23. With respect to the decision of the Technical Tender Evaluation Committee, non-suiting the petitioner/company for other four works, the petitioner has accepted the decision and has also applied for refund of earnest



money deposit pertaining to the those group of works. In that view of the matter, it has been urged that the claim of the petitioner/company is absolutely untenable.

24. Mr. Mrigank Mauli, learned Advocate for respondent No. 8 has raised a preliminary objection regarding the maintainability of the writ petition on the ground that the petitioner had challenged the decision of the Technical Tender Evaluation Committee dated 13.12.2019 *vide* C.W.J.C. No. 573 of 2020 on 19.12.2019, seeking quashing of the decision, which was dismissed as not pressed but without obtaining/grant of any liberty or leave to the petitioner to re-agitate the relief sought therein. While the aforesaid writ petition was still pending, this writ petition was filed stating that the earlier writ petition was filed in urgency with respect to all the five tenders, but the present petition is only with respect to work defined in Clause-3 of the NIT. It has been urged that this is against the public policy and the law to allow filing of multiple writ petitions for the same subject matter, when part of the claim of the petitioner has been dismissed as not pressed.

25. It was further urged that in the present writ petition, the challenge is only to the order dated 24.12.2019, which is sought to be quashed but without seeking quashing of



the original order dated 13.12.2019. The order dated 24.12.2019 is only a sequel order and in the absence of any specific prayer for setting aside the order dated 13.12.2019, the present petition cannot be entertained.

26. In support of the aforesaid contention, reference has been made to a decision of the Supreme Court in *Amarjeet Singh and Ors. v. Devi Ratan and Ors.*, (2010) 1 SCC 417, wherein the Supreme Court, relying upon *P. Chitharanja Menon v. A. Balakrishnan* : (1977) 3 SCC 255; *Roshan Lal v. International Airport Authority of India* : 1980 Supp SCC 449; *H.V. Pardasani v. Union of India* : (1985) 2 SCC 468 and *Govt. of Maharashtra v. Deokar's Distillery* : (2003) 5 SCC 669, has held that the consequential order without challenging the basic order is not permissible in the eyes of law. In all such cases, referred to above, the Supreme Court was dealing with the issues of promotion wherein the seniority, which was consequential to the promotion, was challenged without challenging the promotion.

27. The argument of the counsel for the petitioner that the decision of the Technical Tender Evaluation Committee dated 13.12.2019, which has merged in the decision dated 24.12.2019, has been attempted to rubbished on the



ground that in the event of the original order remaining operative, there would be no deemed merger of the two orders and in that case, challenging the consequential order and not the original order, would be of no avail to the petitioner. The doctrine of merger with respect to decisions of Courts law would not be available to the petitioner/company in the present case. (*Refer to Sita Ram Goel v. The Municipal Board, Kanpur and Ors. : (1958) SCC 1036*).

28. It was vehemently argued that the petitioner has not at all complied with the requirements of Clause 4.5(B) (a) of the instruction to the bidders of the concerned NIT. The petitioner has not demonstrated that it owns any of the key and critical equipments nor is there any evidence of the petitioner/company having entered into any lease agreement showing procurement of key and critical equipments. What has been relied upon by the petitioner is only an affidavit sworn by one Arun Kumar Ray that the equipment and machinery shall be provided to the petitioner/company when desired and demanded. Thus, the petitioner/company cannot be said to have owned, leased or having procured against mobilization advances and the necessary/critical equipments. The affidavit of Arun Kumar Ray, therefore, is absolutely insufficient and, therefore, it



has not been accepted by the Technical Tender Evaluation Committee.

29. It was further pointed out by Mr. Mrigank Mauli, learned Advocate that there is a self-admission of the petitioner/company that the affidavit referred to above is not an agreement. The failure of the petitioner/company to initiate the construction work of Ramjanki Medical College & Hospital, Samastipur has also been cited by respondent No. 8 in support of the contention that the petitioner/company is most non-suited for being entrusted with any big project. In the aforesaid work also, the same person, viz., Arun Kumar Ray, a partner of M/S Badri & Company, Dibrugarh, Assam had sworn an affidavit in compliance of Clause 4.5(B)(a) of the concerned NIT.

30. The fact that the petitioner/company has requested to return the earnest money deposit pertaining to the other works for which also it was held to be non-responsive, has been reiterated by respondent No. 8 and it has been argued that the petitioner, in that event, would be estopped by its conduct to challenge the decision of the Technical Tender Evaluation Committee with respect to the present work which in no way different from the other works for which the petitioner/company had participated in the bid. As a matter of information, it has



been pointed out on behalf of respondent No. 8 that it has quoted 14.49% above the par and not 19.01% as informed by the petitioner/company. Whatever may be the case, it has not been urged, the price difference of the tenderers cannot be, the only consideration for choice of the tenderer. There is no arbitrariness in the decision making process and the work order has been issued to respondent No. 8 on being declared as L-1. [Refer to *M/S Omega Elevators v. The Union of India and Ors.* (decision dated 04.05.2020 passed in C.W.J.C. No. 5607 of 2020)].

31. In order to appreciate the contention of the parties, it would be necessary to refer to Clause 4.5(B)(a) of the NIT which is as follows:

4.5 (B) Each bidder should further demonstrate :

(a) availability (either owned or leased or by procurement against mobilization advances) of the followeing key and critical equipment for this work:

(emphasis provided)

Based on the studies, carried out by the Engineer the minimum suggested major equipment to attain the completion of works in accordance with the prescribed construction schedule are show in the

Availability of the testing equipment required for establishing field laboratory to perform mandatory tests e.g. those stated in Appendix to ITB.



The bidders should, however, undertake their own studies and furnish with their bid, a detailed construction planning and methodology supported with layout and necessary drawings and calculations (detailed) as stated in clause 4.3(1) above to allow the employer to review their proposals. The numbers, types and capacities of each plant/equipment shall be shown in the proposals along with the cycle time for each operation for the given production capacity to match the requirements.

(b) availability for this work of personnel with adequate experience as required; as per

(c) liquid assets and/or availability of credit facilities of no less than amount indicated in Appendix (Credit lines/letter of credit/certificates from Banks for meeting the funds acquirement etc.-usually the equivalent of the estimated cash flow for 3 months in peak construction period.)

32. From a reading of the aforesaid clause in the NIT, it is evident that the bidder is required to demonstrate that it either owns or has leased or has procured against mobilization advances the key and critical equipments for the work based on the studies, carried out by the Engineer and the minimum suggested major equipments to attain the completion of the work in accordance with the prescribed construction schedule. In the event of the petitioner accepting that the affidavit in



question is not a bilateral agreement but a personal affidavit of the maker, the Technical Tender Evaluation Committee cannot be faulted for non-suiting the petitioner/company for being non-responsive to the aforesaid agreement. An affidavit of one of the partners of a company does not serve the requirement put-forth in Clause 4.5(B)(a). There could be only one purpose behind incorporating the aforesaid clause in the NIT, viz., testing the capacity of a tenderer to undertake and complete the construction work.

33. The decision of the Technical Tender Evaluation Committee, on further scrutiny, does not appear to be bad in the eyes of law as the petitioner/company and all others who were held to be non-responsive on technical grounds were given an opportunity to explain their cause and only thereafter, a decision has been taken reiterating the earlier decision of disqualification of the petitioner/company dated 13.12.2019.

34. There also does not appear to be any vagueness in the requirement as envisaged in Clause 4.5(B)(a) of the NIT and, therefore, it ought to have been strictly complied with for being held to be technically responsive.

35. A tenderer/bidder participating against a tender notice has no other right except the right to equality and



fair treatment in matters of evaluation of competitive bids offered by interested persons in response to the notice inviting tenders in a transparent manner and free from hidden agenda. There is also no obligation to accept any one of the tenders, even the lowest tender. The decision to enter into any contract is solely with the authority issuing the tender. (*Refer to Rishi Kiran Logistics Pvt. Ltd vs. Board of Trustees of Kandla Port Trust & Ors. : (2015) 13 SCC 233 and State of Jharkhand and Ors. vs. M/S CWE-SOMA Consortium : (2016) 14 SCC 172*).

36. While exercising the powers of judicial review in respect of contracts entered into on behalf of the State, the Courts have to be cautious and have to be focused on finding out whether there has been any infirmity in the decision making process. Any interference by Courts of law has to be on the grounds of the decision making process being unreasonable, irrational, arbitrary or being violative of Article 14 of the Constitution of India. (*Refer to Sterling Computers Ltd. v. M & N Publications Ltd. : AIR 1996 SC 51; Tata Cellular v. Union of India : AIR 1996 SC 11; Raunaq International Ltd. v. I.V.R. Construction Ltd. AIR : 1999 SC 393; Air India Ltd. v. Cochin International Airport Ltd. : [2000] 1 SCR 505; Association of Registration Plates v. Union of India : AIR 2005 SC 469; B.S.N. Joshi v. Nair Coal Services Ltd. : AIR 2007 SC 437; Jagdish Mandal vs. State of Orissa and Ors. : [2007] 14 SCC 517; Siemens Public Communication Networks Pvt. Ltd. and Ors. vs. Union of India (UOI) and Ors. : (2008)16 SCC 215; Afcons Infrastructure Ltd. Vs. Nagpur Metro Rail Corporation Ltd. and Ors. : (2016) 16 SCC 818; Municipal Corporation, Ujjain and Ors. Vs. BVG India Limited and Ors. : (2018) 5 SCC 462 and The Bharat Coking Coal Ltd. and Ors. Vs. AMR Dev Prabha and Ors. : MANU/SC/0317/2020*).



37. After having perused the decision of the Technical Tender Evaluation Committee and noting the case laws with regard to the scope of judicial interference in matters of Government contracts, I find that the petitioner had challenged the decision of the Technical Tender Evaluation Committee dated 13.12.2019 by way of a writ petition which was dismissed as withdrawn. The present writ petition has been filed seeking quashing of the order dated 24.12.2019, which is only a sequel order and not the basic order which has been passed on 13.12.2019. The writ petition referred to above was directed against the petitioner/company being declared non-responsive for all the five group of works that it had participated in. The only reason for the petitioner/company to have limited the present challenge to the work of construction of Government Hospital in Sitamarhi and not the other groups for which it had participated is that in the present work, the petitioner's tender is the lowest. The aforesaid ground appears to be rather specious and not acceptable as there is no proof of the fact that the petitioner/company had offered the lowest rate or lower than respondent No. 8. The financial bid of the petitioner/company had never been opened and, therefore, any statement in that regard is of no consequence.



38. Assuming but not admitting that on a post-decisional analysis, the petitioner/company found his tender to be lowest (lower than respondent No. 8), then also it would be of no avail to him as the rate of a tender is not the only relevant consideration for the tender issuing authority. There is no right to any bidder, be he the lowest or the highest. As noted above, all that is required to be seen is whether there is any *mala fides* or arbitrariness in the decision making process of the tender authority. In that view of the matter, it would be difficult to accept the proposition of the petitioner/company that the dismissal of the earlier writ petition would not be a bar for entertaining of the present writ petition.

39. On other aspects also, the decision of the Technical Tender Evaluation Committee does not seem to falter. Demonstrating the capability of a bidder to mobilize its resources for key and critical equipments for undertaking and concluding the work is an essential condition of a contract and the same cannot be tinkered with. There is no violation of any public policy and there is no vagueness in the clause on which the petitioner/company has been found to be non-responsive. An affidavit of a partner of a company assuring the availability of the key and critical equipments with it and the willingness to



deploy the same on hire purchase basis or lease to the petitioner, in case a contract is awarded to it, is not sufficient to meet the requirement of Clause 4.5(B)(a). There is no agreement between the petitioner/company and the company of which Mr. Arun Kumar Ray is a partner, who has only sworn a personal affidavit.

40. Absence of signature of any authorized representative of the petitioner/company on the aforesaid affidavit or absence of signature of the authorized representative of the petitioner on the physical/hard copy of the aforesaid affidavit may not be of much relevance but the affidavit of Arun Kumar Ray itself, when seen in the perspective of testing the capability of the petitioner/company as a bidder, falls completely short of the required standard.

41. In the estimation of this Court, it would have been highly unsafe and not prudent for the Technical Evaluation Committee to have accepted such an affidavit as an evidence of the capability of a bidder.

42. That the petitioner has not been able to deploy sufficient plants and equipments in some other tender in which also there was a similar assurance from Mr. Arun Kumar Ray of M/S Badri & Company does not appear to have weighed



with the Technical Tender Evaluation Committee and, therefore, even if it has been taken as a ground against the contentions raised on behalf of the petitioner/company by the respondents, it would not make the decision of the Technical Tender Evaluation Committee suspect in terms of the decision of the Supreme Court in *Mohinder Singh Gill & Anr. v. Chief Election Commissioner, New Delhi and Ors. : (1978) 1 SCC 405*, which has ruled that if an order is based on certain grounds, the validity of those grounds have to be judged and the correctness of the decision cannot be made to hinge on other factors which are not in the recorded reasons of the order which has been challenged.

43. It is a matter of great public interest that public money be expended properly, as in the present case which concerns the construction of Medical College & Hospital, the public would be directly interested in timely completion of the contract so that medical services become available to the public expeditiously. Keeping this in mind also, the order challenged in the present writ petition does not appear to be bad in the eyes of law.

44. Thus, for the reasons aforesaid, viz., the petitioner/company not challenging the basic order of



disqualification from participating in the financial bid, the decision being fair and not arbitrary, discriminatory or violative of Article 14 of the Constitution of India and the limited scope of judicial interference in matters of Government contracts, this Court finds that the claim of the petitioner/company is absolutely untenable and is not required to be acceded to.

45. This writ petition therefore fails and is, accordingly, dismissed.

(Ashutosh Kumar, J)

krishna/Praveen/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	18.05.2020
Transmission Date	N/A

