

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1635 of 2020

- Mansingh Yadav S/o Shri Arjun Yadav Aged About 30 Years R/o Mandi Road, Akaltara, District Janjgir-Champa Chhattisgarh.

---- Petitioner

Versus

1. Chhattisgarh State Civil Supplies Services Corporation Limited Through Its Managing Director, Hitvad Bhawan, Avanti Vihar, Telibandha, Raipur, Tehsil Raipur, District Raipur Chhattisgarh.
2. Tender Evaluation Committee Through, The District Manager, Chhattisgarh State Civil Supplies Corporation Limited, Janjgir, District Janjgir-Champa Chhattisgarh.
3. State of Chhattisgarh Through Its Principal Secretary, Department Of Food, Civil Supplies And Consumer Protection, Govt Of Chhattisgarh, Mantralaya, Atal Nagar, Capital Complex, Tehsil And District Raipur Chhattisgarh.
4. Sumit Singh Chandel S/o Shri Balkrishna Singh Chandel Aged About 29 Years R/o Tarod, Akaltara, District Janjgir-Champa Chhattisgarh

---- Respondents

For Petitioner	: Shri Ashutosh Trivedi, Advocate
For Respondent No.1 & 2/Corporation	: Shri Syed Majid Ali, Advocate
For Respondent No.3 / State	: Shri Chandresh Shrivastava, Dy.AG

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per, P. R. Ramachandra Menon, Chief Justice

26.08.2020

1. Rejection of the technical bid by the 1st Respondent in connection with the tender for transportation of goods, pursuant to Annexure-P/2 notification, made the Petitioner to approach this Court, contending that the same is arbitrary and illegal; insofar as the rate quoted by the Petitioner is far less than the rate quoted by the 4th Respondent, who is being identified to be awarded the contract.

2. The Respondent-Corporation has filed a reply statement producing copies of the relevant materials, in response to which the Petitioner has filed rejoinder as well, alongwith some additional documents.
3. We heard Shri Ashutosh Trivedi, the learned counsel for the Petitioner, Shri Syed Mazid Ali, the learned standing counsel for the Respondent-Corporation and also Shri Chandresh Shrivastava, the learned counsel appearing on behalf of Respondent/State.
4. The sum and substance of the case projected by the Petitioner is that, pursuant to Annexure-P/2 tender, the bid was submitted by the Petitioner Online, by way of Annexure-P/3. The Respondent-Corporation, considered the bids of the eligible participants on 08.06.2020, as discernible from Annexure-P/1. The Petitioner, on comparing the rates quoted by the parties concerned, as described therein, with the rate quoted by him found that his rate of Rs.269/- in respect of the tender for Akaltara (Base Depo) – Akaltara (Block) Category-A was lower than the rate of Rs.272/- quoted by the 4th Respondent. In the said circumstance, the Petitioner preferred Annexure-P/5 representation before the Respondent No.1, which however did not evoke any positive response and hence the writ petition, seeking for a direction to the Respondents to consider the rate quoted by the Petitioner and to award the work to the lowest bidder *i.e.*, the Petitioner.
5. The version of the Respondent-Corporation is that, pursuant of Annexure-P/2 tender, various bids came to be submitted including that

of the Petitioner and the same was processed and considered by the Tender Evaluation Committee, which is a four member Committee headed by the Collector, Food Officer, District Manager and Senior Accountant; as discernible from Annexure-R/2. The learned counsel for the Respondent-Corporation points out that, as per 'Clause 4.2' of the tender conditions, a bidder who applies for Category-A has to submit details of 5 Heavy Goods Vehicles and has to submit such details as per Appendix-9 with a check list. The Petitioner, who applied under Category-A had not given the full details of the Vehicles in tune with Clause 4.2 and it was the reason for rejection of the bid (for want of the details of one of the 5 Heavy Goods Vehicles). A copy of the portion of the relevant note-sheet dated 27.05.2020, showing the evaluation of the bids submitted by the tenderers, has been produced as Annexure-R/4.

6. The learned counsel for the Respondent-Corporation points out that the Petitioner has taken a 'ground' regarding the relaxation given by the Government of India regarding registration of the vehicle during COVID-19 pandemic, but this is having no relevance at all, insofar as the rejection of the technical bid of the Petitioner is not on account of the registration, but for non-compliance of mandatory provisions under Clause 4.2, casting an obligation on the part of the tender to submit the particulars of the Vehicles as insisted in the tender conditions. It is also pointed out that the rate quoted by the 4th Respondent, who was qualified in all respects, was negotiated further and it has been brought

down from Rs.272/- to Rs.269.85; as per Annexure-R/8 proceeding dated 22.06.2020. It was accordingly that, the 4th Respondent was informed that his offer was accepted and he was required to execute an agreement for execution of work vide Annexure-R/9 dated 23.06.2020. After completion of the necessary process and proceedings, as per Annexure-R/10 order dated 01.07.2020 the 4th Respondent was directed to commence the work for the year 2020-21.

7. It is brought to the notice of this Court with reference to the tender submitted by the Petitioner, that objection was raised by one of the bidders on 30.05.2020 vide Annexure-R/11, pointing out that the particulars of the vehicles were not properly mentioned by the Petitioner, which was a mandatory requirement under tender conditions. It is also pointed out that the version of the Petitioner that, the representation preferred was left unattended, is not correct and that the same was replied through e-mail, as borne by Annexure-R/12. This being the position, the Petitioner was very much aware of the reason for rejection of his tender for non-submission of the particulars of the Vehicles in conformity with the Clause 4.2 of the tender conditions. The learned counsel further submits that the Petitioner, in view of the turn of events, had submitted Annexure-R/13 application on 10.07.2020 to release his Earnest Money Deposit (EMD) and considering the same, the EMD was released in favour of the Petitioner vide Cheque No. 057710 payable at State Bank of India, Main Branch – Janjgir.

8. The learned counsel for the Petitioner submits, with reference to the rejoinder, that he has produced the particulars of the Vehicles also dealing with the Fitness and the Emission Test; copies of which have been produced as Annexure-P/8 / P/9 and P/10. It is to be noted that the lapse on the part of the Petitioner in submitting the relevant particulars in respect of all the Vehicles in terms of Clause 4.2 of the tender conditions stands substantiated. As the rejection of the bid of the Petitioner is for non satisfaction of the requirements in terms of such clause, the “decision making process” effected by the Respondent-Corporation is perfectly in order and no defect, irregularity or illegality is pointed out and substantiated by the Petitioner to call for interference. Above all, the Petitioner himself has subsequently decided to apply for to return the EMD vide Annexure-R/13 and the same was considered and the EMD was released by the Respondent-Corporation.
9. In the said circumstance, it was never open for the Petitioner to have taken a 'U-turn' and file the writ petition on 10.07.2020, seeking for a direction to consider the rate quoted by the Petitioner and to award the tender to him, more so when there was no EMD to support the tender and further when he was not qualified in terms of the tender notification. We find no merit in the writ petition. It stands dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge