

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 4250 of 2019**

Mitushi Enterprises A Proprietor Firm. Smt. Mukesh Trehan, W/o Shri Natesh Trehan Proprietor Of Mitushi Enterprises, Garden Tools, Lawn Mowers, Office At F-168, C, Rajouri Garden, New Delhi, Through Its Marketing Officer Manoj Pandey S/o Shri H. P. Pandey, Aged About 39 Years R/o L-41, Gali No. 9, Som Bazar Road, Rajapuri, Uttam Nagar, New Delhi India

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Department of Agriculture, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Chhattisgarh Rajya Beej Evam Krishi Vikas Nigam Limited Through Its Managing Director Beej Bhavan, 1st Floor, Telibandha, GE Road, Raipur 492007 Chhattisgarh

---- Respondents

For Petitioner	: Shri Vinay Pandey, Advocate
For Respondent No.1	: Shri Sudeep Agrawal, Deputy Advocate General
For Respondent No.2	: Shri Animesh Tiwari, 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****13.01.2020**

1. The Petitioner has moved this Court with the following prayers :

“10.1 That the petitioner most humbly and respectfully prays to this Hon'ble Court to issue appropriate writ/order/direction to quash the impugned communication dated 10.11.2019 (Annexure-P/1).

10.2 That the petitioner most humbly and respectfully prays to this Hon'ble Court to issue appropriate writ/order/direction to the respondents to consider and declare successful the Bid submitted by the petitioner for Tender RCO-9 for protection Equipment 2019-2020 pursuant to Annexure P/2.

10.3 Any other relief whatever, this Hon'ble Court may deem fit and proper may also be granted to the petitioner.”

2. Heard Shri Vinay Pandey, the learned counsel appearing for the Petitioner, Shri Sudeep Agrawal, the learned Deputy Advocate General representing the State as well as Shri Animesh Tiwari, the learned counsel for the 2nd Respondent.
3. The sum and substance of the case projected before this Court is with regard to the alleged arbitrary rejection of the tender preferred by the Petitioner, by the 2nd Respondent, referring to non-satisfaction of 'Clause 10' of the eligibility conditions. In fact, the tender for supply of material plant protection equipments, light traps and pheromone traps for 2019-2020 was floated by the 2nd Respondent way back on 14.08.2019, as borne by Annexure P/3. The last date for submission of the tender was 09.09.2019. According to the Petitioner, the unit of the Petitioner, which is a proprietorship concern, satisfied all the requirements and submitted the tender with all the supporting documents. On 10.11.2019, the Petitioner was let known that the technical bid submitted by the Petitioner was rejected as per Annexure P/1, which made the Petitioner to feel aggrieved

and hence this writ petition has been filed so as to interdict the Annexure P/1 and to permit the Petitioner to participate in the tender proceeding.

4. The learned counsel for the Petitioner points out that the only reason for rejection of his bid is with reference to non-satisfaction of 'Clause 10' of the eligibility conditions. Clause 10 reads as follows :

“10. The unit should be running condition. Bidder should produce DTIC running unit certificate/current electric bill of the unit. (Relevant documents should be uploaded) ”

5. It is pointed out with reference to the 'electricity bill' submitted by the Petitioner, that the same is of current year and has been issued in the name of husband of the Petitioner, showing the billing address, which is the same as the supply address given therein, as noted below :

“Name: MR. NARESH TREHAN
Billing Address: SHED NO 42 NEW DSIDC
COMPLEX WAZIRPUR IND AREA NEW DELHI
110052
Supply Address: SHED NO 42 NEW DSIDC
COMPLEX WAZIRPUR IND AREA NEW DELHI
110052
Mobile/Tel. No.: 9810011432/47085432
E-mail ID: mitushi_enterprises@hotmail.com”

6. The learned counsel for the Petitioner submits that the Petitioner would have clarified the position, had he been given an opportunity in this regard. The purpose of the stipulation under Clause 10 is only to ascertain whether the unit is a running unit or not and since the establishment is a proprietorship concern and the electricity connection was taken in the name of the husband of the Petitioner, the rejection of the bid submitted by the Petitioner with reference to the alleged non-satisfaction of the eligibility

condition at 'Clause 10' is not correct or sustainable and hence requires interference of this Court.

7. The learned counsel appearing for the 2nd Respondent submits that the idea and understanding of the Petitioner is not correct or sustainable. As far as the 2nd Respondent is concerned, the tender notification was clear and specific. Clause 10 of the eligibility conditions clearly insisted production of DTIC certificate to show that the unit was a running one, or in the alternative, opportunity was given to the party concerned to produce electricity bill in the name of the unit.
8. Going by the electricity bill produced by the Petitioner, admittedly, it is in the name of one Naresh Trehan, the identity of whom is not revealed. Whether he is the husband of the Petitioner or not was not a matter to look out of the 2nd Respondent, nor was the 2nd Respondent required to make any enquiry into this regard. Insofar as the provision is quite categorical, insisting production of either DTIC certificate or the electricity bill in the name of the unit, it was to be satisfied, as specified and nothing else.
9. The learned counsel for the Petitioner submits that the bill in the name of husband of the Petitioner was produced along with tender and it is substantial compliance. The 2nd Respondent was not justified in rejecting the tender for a hyper-technical reason. It is also pointed out that similar bills were being produced on earlier occasions as well, to show that the unit was a running one and hence the chance denied to participate in the tender proceedings is nothing but arbitrary. We find it difficult to accept the

said proposition. This is for the reason that the 2nd Respondent had clearly mentioned under 'Clause 10' of the eligibility conditions that the required document to substantiate the running of the unit was either DTIC certificate or running bill in the name of the unit. Admittedly, the DTIC certificate was not obtained or produced by the Petitioner. The electricity bill submitted by the Petitioner was not in the name of the unit, but in the name of some other person, being the husband of the Petitioner. Even otherwise, the provision does not say that the 2nd Respondent will be satisfied with a bill issued in the name of a person, but it insists that it shall be in the name of the unit. Since the Petitioner was aware that the electricity connection was not taken in the name of the unit, the Petitioner ought to have taken necessary measures to obtain the DTIC certificate, as stipulated in Clause 10 of the eligibility conditions. It is also to be borne in mind, that the Petitioner was having three weeks' time in this regard, by virtue of the fact that the tender notification was issued way back on 14.08.2019 and the last date for submission of the tender was specified as 09.09.2019.

10. In the above facts and circumstances, the course and proceedings pursued by the 2nd Respondent cannot be termed as arbitrary or illegal, warranting interference by this Court. No tenable ground is projected to sustain interference of this Court. The writ petition fails and it is dismissed accordingly.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge