

12th January,
2021
(AK)
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W.P.A 844 of 2021

Shri K. Unnikrishna Pillai
Vs.
Union of India & Ors.

Mr. A. Prasanth
Mr. Samar Chowdhury
...For the Petitioner.

The petitioner submits that the petitioner participated in an e-tender for construction of eastern side jetty on bored pile foundation at Kalpeni Island by submitting online bid on September 2, 2020, that is, one day prior to the last date of online submission, which was September 3, 2020.

The accompanying original documents, requisite for the online tender, were sent through speed post by the petitioner as long back as on August 25, 2020, but were received by the tendering authorities about two days after the last date of submission.

Learned counsel for the petitioner argues that the petitioner was not at fault for the delay occasioned by the postal authorities in delivering the petitioner's original documents to the respondent authorities. As such, the petitioner may be permitted to participate in the e-auction.

It is borne out by the communication to the petitioner from the respondent authorities, dated

September 24, 2020 (annexed at page-131 of the writ petition), that the petitioner's tender was rejected due to non-submission of original documents within the stipulated time of the NIT.

Learned counsel for the respondent authorities, in his usual fairness, submits that although there was no fault on the part of the petitioner, the respondent authorities did not commit any error either, in closing the bid after the proposed last date of submission of documents.

This is a peculiar case where neither party was at fault in occasioning the delay. In fact, the inordinate delay of the postal authorities in delivering the petitioner's documents may also be seen in mellow light in view of the prevalent Pandemic situation at the relevant juncture.

As such, since it is submitted that the bids have not yet been opened, the petitioner ought to get an opportunity to be considered in the tender process.

Accordingly, W.P.A. 844 of 2021 is disposed of by directing the respondent authorities to treat the online bid application, including the original documents, sent by the petitioner to the respondents as a valid bid and to permit the petitioner to participate in the tender process, taking the bid of the petitioner within the zone of consideration for awarding contract, along with the other legitimate bids, in accordance with law and as per the NIT

conditions. Needless to say, the communication dated September 24, 2020 (Annexure-P7 at poage-131 of the writ petition) stands rescinded.

Parties are to act on the communication of counsel and/or the server copy of this order, without insisting upon prior production of a certified copy thereof.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)