

S/L 5
02.11.2021
Court No.7
SD/GB

WPA 16944 of 2021
(Via Video Conference)

M/s. Jana Enterprise
Vs.
State of West Bengal & Ors.

Mr. Swarup Pal

... for the Petitioner.

Mr. Samrat Sen
Md. T.M. Siddiqui
Mr. Nilotpal Chatterjee

... for the State.

Affidavit-of-service filed in Court today be kept with the record.

The Chief Medical Officer of Health, Nandigram Health District, Nandigram, Purba Medinipur, the respondent no.4 herein, issued notice being Tender Notice No. CMOH(NHD)/e_Tender/Cooked-diet (1st Call)/10245 dated September 29, 2021 for supply of cooked diet for indoor patients of Government Health Facilities.

The petitioner although has participated in the said tender but is questioning the validity of the tender notice on the ground that there are several discrepancies in the said notice affecting the entire tender process.

Mr. Swarup Pal, learned Advocate for the petitioner, submits that Clause 3 of the tender notice stipulates eligibility of the qualified bidders, Clause 3.1(a) thereof prescribes that the intending tenderer should produce credential of similar nature of a completed single work having minimum value of 40% (Forty per

cent) of the estimated amount put to tender during 3 (three) years prior to the date of the issue of the said e-Tender notice and note 'A' appended to the said Clause 3 clarifying the period of three years mentioned in the said Clause 3.1 of the said notice says that the said period shall mean service rendered after April 20, 2011 whereas the prescribed proforma in the Tender notice for submitting performance statement by the bidders stipulates that such statement to be made on the basis of the performance for the period of last three years from the date of the said notice. He further submits that the rate of cooked diet mentioned in a table under Clause 6.2 of the Tender notice relates to financial year 2018-2020 but the Tender is for the period of three years from September 29, 2021 i.e. the date of e-Tender notice.

According to Mr. Paul, the aforesaid discrepancies in the Tender notice have vitiated the entire tender process.

Mr. Nilotpal Chatterjee, learned Advocate appearing on behalf of the State respondents submits that responding to the said tender notice the petitioner has participated in the tender process, as such, it is not open for it to challenge the validity of the said notice at this stage.

He further submits that the discrepancies in the tender notice pointed out by Mr. Paul are omission of less importance, as such, cannot vitiate the entire tender process.

He categorically submits that he has taken specific instruction from the respondent no.4 that three years period for rendering service of similar nature of a completed single work shall be reckoned either from April, 2011 or the same shall be for

the period of last three years from the date of the said tender notice. Fulfillment of either of the aforesaid criteria shall be sufficient compliance of Clause 3 of the said notice.

The discrepancies in the tender notice are not of such nature for which the entire tender process shall be vitiated. In view of clarification given by the learned Advocate for the State respondents regarding the discrepancies in the Tender Notice, the apprehension of the petitioner that its eligibility in participating in the said tender may be called in question loses its base.

Accordingly, WPA 16944 of 2021 is disposed of with the above observations.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Biswajit Basu, J.)