

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 4198 of 2021**

M/s Black Smith Corporation Mining And Allied OPC Pvt Ltd. Through Its Proprietor Vinay Shrivastava S/o S.P. Shrivastava, Aged About 24 Years, R/o Ward No. 11, Near Ayyappa Temple, Bilaspur-Raipur Road, District-Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. National Thermal Power Corporation Limited (NTPC), Through General Manager, Plot No. 87, Sector-24, Atal Nagar, Naya Raipur, District-Raipur, Chhattisgarh.

2. Deputy General Manager (Contracts And Materials), NTPC Limited Unified Shared Service Center, Central Procurement Group-1, Western Region -II, Head Quarter, Plot No. 87, Sector -24, Atal Nagar, Naya Raipur, District-Raipur, Chhattisgarh

---- Respondents

(Cause-title taken from Case Information System)

For Petitioner : Shri Krishna Tandon, Advocate.

For Respondents : Shri B.D. Guru, Advocate

Hon'ble the Chief Justice Shri Arup Kumar Goswami

Hon'ble Justice Shri Goutam Bhaduri

Order On Board

18/10/2021

Per Arup Kumar Goswami, C.J.

The case of the petitioner, in short, is that pursuant to a Notice Inviting Tender (for short, NIT) dated 24.09.2021 issued by the National Thermal Power Corporation Limited (for short, NTPC Limited) inviting sealed tenders for transportation of pond ash to Kodebode- Dhamtari section of NH-43 (from Ch.

72+ 100 Km to Ch. 73+470 Km) from NTPC Sipat, the petitioner had submitted its tender online on 04.10.2021 enclosing thereto all requisite documents and the petitioner was given Tender ID No. 2021_NTPC_54519_1. However, subsequently, the petitioner did not find its tender on the portal of the NTPC Limited. It is in that circumstance, the petitioner has approached this Court praying for a writ of mandamus directing the respondents to permit the petitioner to participate in the aforesaid NIT dated 24.09.2021.

2. It is submitted by Mr. Krishna Tandon, learned Counsel for the petitioner, that when the petitioner had submitted its tender, it is not understood as to why such tender is not reflected in the portal of the NTPC Limited.

3. Mr. B.D. Guru, learned counsel appearing for the respondents, on instructions, submits that the NIT in the instant case was of "Limited" type, meaning thereby the tenders were called from the enlisted tenderers who had responded to a notification issued in the month of May, 2021 for the purpose of enlistment and that the petitioner is not an enlisted contractor of the NTPC Limited. He has submitted that the first 4 pages of the NIT is not annexed with the writ petition and the first page of the NTPC Limited e-Procurement Portal would make it abundantly clear that tender type was "Limited" and the bidders who are eligible to submit tender, are indicated in Serial No. 1 to 30. It is also pointed out by him that it is not correct as submitted by Mr. Tandon that the petitioner had been assigned the tender ID No. 2021 _NTPC_ 54519_1 as it is the tender ID for the particular NIT in question. He also submits that while it is possible for anyone to download the tender documents, one cannot upload a tender for the particular work under the NIT in question unless it is an enlisted tenderer. Accordingly, he submits that petitioner being not eligible in terms of the NIT, no case is made out for interference in exercise of power under Article 226 of the Constitution of India.

4. The NIT, which was issued on 24.09.2021, stipulated that bid opening date is 08.10.2021. Learned counsel for the parties, however, submit that, subsequently, the date of submission of tender had been extended and today is the last date for submission of tender.

5. We have perused the materials on record and have considered the submission of the learned counsel for the parties.

6. The document, namely, NTPC Limited eProcurement Portal page No. 1 to 4, furnished by Shri B.D. Guru during the course of the proceedings, indicate that tender type is "Limited" for transportation of pond ash to Kodebode Dhamtari from NTPC Sipat. The list of limited bidders eligible to participate in the instant NIT is also indicated at Page-3 of the tender details in NTPC Limited eProcurement Portal. Thus, it would appear that sealed tenders are invited only from enlisted tenderers whose name figure in the tender details, excluding all others who were not enlisted with the NTPC Limited. It is an admitted position that the petitioner is not an enlisted tenderer of NTPC Limited.

7. In view of what is noted hereinabove, we are of the considered opinion that no case is made out for issuing a direction as is prayed for by the petitioner. Consequently, finding no merit, the writ petition is dismissed. No order as to cost.

Sd/-

(Arup Kumar Goswami)
Chief Justice

Sd/-

(Goutam Bhaduri)
Judge