

17-01-2022
Court No.13
Sl.4
pk

WPA 605 of 2022
Kartick Chandra Das
Vs.
State of West Bengal and others
(Via Video Conference)

Mr. Kalyan Kumar Bandopadhyay, Id. Sr. Adv.,
Mr. Abhishek Halder,
Mr. Rahul Kumar Singh,
Mr. Tapajit Das
.....for the Petitioners.

Mr. Samrat Sen,
Ms. Manali Ali
... for the State.

The short question that comes for consideration in the instant writ petition is as to whether the description of the tenderer Kartick Chandra Das must be and should be read as synonymous to the expression “M/s. Kartick Chandra Das”.

The writ petitioner’s bid for “Reconstruction, Remodeling and Improvement of Embankment” etc. for NIT dated September 6, 2016 was rejected by the respondent for the name “Kartick Chandra Das” being different from the name of the partnership firm in the Registration Certificate issued by the Registrar of Firms.

The writ petitioner submitted a bid to the aforesaid NIT in the name of “Kartick Chandra Das”. The GST number and PAN of the said Kartick Chandra Das are 19AABAK3982F2ZG and AABAK3982F respectively. Admittedly the Registration Certificate issued by the Registrar of

Firms, West Bengal to the writ petitioner is “M/s. Kartick Chandra Das”. The petitioner’s partnership firm is registered and has two partners, namely, Kartick Chandra Das and Panchanan Das. A deed of partnership dated November 3, 2009 registered on June 29, 2010, has recorded the name of the said firm as “M/s. Kartick Chandra Das”. A Certificate to this effect is annexed to the writ petition.

By reference to Clause 4.2C(II) of the NIT, it is submitted that the petitioner was required to submit documents of registration of the firm. Reference is also made to a table at page 70 of the writ petition being internal page 23 of the NIT for partnership firms to produce legally valid Partnership Deed, Form No.-VIII/Memorandum of Registration of Registrar of Firms.

Admittedly, the tender NIT was submitted by the petitioner as “Kartick Chandra Das” and not as M/s. Kartick Chandra Das. The sole ground for rejection of bid in the impugned order was that the Registration Certificate of the petitioner was in the name and style of “M/s. Kartick Chandra Das”, which is different from the name under which the tender was submitted. The petitioner has addressed a communication representation dated 10th January, 2022 to the respondents enclosing therewith a notarized affidavit. It is stated in such

affidavit that the Certificate of Registration of the petitioner had a mistake, which erroneously included the expression “M/s.” before the name “Kartick Chandra Das”.

The matter is pending consideration referred to a Chief Engineer, who will decide review sought by the petitioner.

I have heard the counsel for the petitioner Mr. Bandopadhyay and considering the decision of the Division Bench of the Bombay High Court referred in **2014 SCC Online Bom 1836 (Khare and Tarkunde Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others)** which has referred to a series of judgements of the Supreme Court on the subject of essential and non-essential part of the tender.

This Court is inclined to direct the concerned Chief Engineer to take a decision on the eligibility of the writ petitioner notwithstanding the error in describing his name as “Kartick Chandra Das” instead of “M/s. Kartick Chandra Das” in the light of the following :-

- a) Whether the PAN and GST of Kartick Chandra Das are that of any individual or a partnership firm M/s. Kartick Chandra Das.
- b) As to whether the Experience Certificate submitted by the petitioner in the name and

style of “Kartick Chandra Das” is that of a firm M/s. Kartick Chandra Das or any individual.

The error committed by the petitioner in failing to mention the expression “M/s.” before its name would be relevant for the purposes of tax laws of the country and for the purposes of experience .

It is, however, indicated that this Court has addressed the technical disqualification of the respondents in the letter dated 10.01.2021 only to the very limited extent as indicated herein above. The writ petitioner would be required to satisfy all other technical criteria and the respondents may also address other issues leading to satisfaction of other technical criteria.

It is expected that the aforesaid decision is taken by the respondents within a period of ten days, independently, as this Court has not decided the matter in any way or manner.

The respondents shall take into consideration all documents annexed to the writ petition while taking the decision. Petitioner may, if he so chooses, submit additional documents within the next 72 hours to the respondents for complying with the aforesaid order.

The writ petition is disposed of.

There will be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)