03.01.2022.
Court No.13
Item No. 19
ap

W.P.A. No. 20663 of 2021
(Through Video Conference)

Tirupati Agro Seed Distribution Pvt. Ltd. & Anr.
Versus
The State of West Bengal & Ors.

Mr. Amalesh Ray,
Ms. Mousumi Bhowal.
…For the petitioners.
Ms. Manali Ali.
…For the State.
Mr. Avik Ghatak,
Mr. Rishabh Dutta Gupta.
..For the respondent no.4.

Mr. Kishore Datta, ld. Sr. Advocate,
Mr. Arka Kumar Nag.
…For the respondent no.7.

Ms. Sreemoyee Mitra.
…For the respondent nos.10 & 14.

Mr. Arkaprava Sen.
…For the respondent no.11.

Affidavit-of-service filed in Court today be taken on record.

The writ petitioners are aggrieved by the rejection of his technical bid, by the respondents, for supply and delivery of disaster management kits for the financial years 2022-2023, 2023-2024 and 2024-2025.

In terms of Clause 6(ii)(b) of the Notice Inviting Tender, the writ petitioners were required to produce a "Solvency Certificate from the Bank to certify financial capacity of the intending Aggregator-cum-supplier to execute a work of about Rs.7 Crore for one package".

The certificate produced by the petitioners, issued by the State Bank of India indicated that the petitioners had a balance of about Rs.73,25,565/- in their account. The petitioners' bid was therefore rejected for non-submission of solvency certificate to the extent of Rs. 7 Crores.

Counsel for the petitioners would argue that the financial certificate produced by the other tenderers, annexed at pages 68 to 73 would indicate only the credit limits were being enjoyed by the said bidders to the extent of Rs.7 Crores or above.

The writ petitioners, in fact, were enjoying credit facilities from HDFC Bank for over Rs.14 Crores which was however not produced along with the bid.

It is, therefore, submitted that the respondents should have considered the same.

It is alternatively submitted that the credit facilities being availed by a person cannot constitute or indicate or fulfil the requirement of financial solvency. The other bids are also liable to be rejected.

Having heard the Counsels for the respective parties, this Court finds firstly that the documents showing credit facilities being enjoyed by the petitioners from HDFC Bank were never submitted to the respondents. The other tenderers have indeed indicated that they wee enjoying the credit facility of Rs.7 Crores and/or more.

When a person is granted credit facilities upto a particular limit, it is presumed that the Bank is secured to that extent from the customer concerned.

In that view of the matter, the finding of the TEC of the employer that credit facilities of Rs.7 Crores and above being enjoyed by a bidder would indeed constitute solvency in terms of the NIT cannot be faulted.

In view of the above, the petitioner cannot cry hoarse for his own omission while submitting the financial documents and for not submitting the right financial documents. No interference is therefore called for in this writ petition with rejection of the petitioners' bid.

Hence, the instant writ petition must fail and is hereby dismissed.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)