

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 225 of 2022

Santosh Kumar Rout

.....

Petitioner

Mr. N. Jujharsingh, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite parties

*Mr. J. P. Patnaik,
Government Advocate*

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. PANIGRAHI

ORDER

05.01.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. N. Jujharsingh, learned counsel for the petitioner and Mr. J.P. Patnaik, learned Government Advocate for the State.

3. The petitioner has filed this writ petition seeking to quash the order no.5921 dated 22.12.2021 (2nd corrigendum) of opposite party no.4, the Chief Construction Engineer, Rural Works Circle, Sunabeda under Annexure-7, and to issue direction to the opposite parties to issue letter of acceptance in his favour to execute the agreement for performance of the work, “*Construction and maintenance of Kunturpadar-Nilaram Talpadar-Kutnipadar road under MMSY in the District of Malkangiri.*”

4. Mr. N. Jujharsingh, learned counsel for the petitioner contended that pursuant to detailed tender call notice no.5284 dated 25.11.2021 issued by opposite party no.4-Chief

Construction Engineer, Rural Works Circle, Sunabeda invited tender for the work “*Construction and maintenance of Kunturpadar-Nilaram Talpadar-Kutnipadar road under MMSY in the District of Malkangiri*”, the petitioner submitted his bid and after technical evaluation, he was declared qualified and subsequently, opposite party no.4 on 22.12.2021 under Annexure-7 issued 2nd Corrigendum indicating that the petitioner has been disqualified. It is contended that while issuing the 2nd Corrigendum dated 22.12.2021 under Annexure-7, opposite party no.4 has not assigned any reason for disqualification of the petitioner. Therefore, it is contended that in absence of any reason, the 2nd Corrigendum so issued under Annexure-7 dated 22.12.2021 disqualifying the petitioner cannot sustain in the eye of law.

5. Mr. J.P. Patnaik, learned Government Advocate for the State contended that a bare perusal of Annexure-7 dated 22.12.2021 would clearly indicate that no reason has been assigned for disqualification of the petitioner. Therefore, opportunity may be given to opposite party no.4 to pass a reasoned order for disqualification of the petitioner.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that admittedly the petitioner is a bidder pursuant to detailed tender call notice and after technical evaluation, the petitioner was declared qualified, but subsequently opposite party no.4 declared the petitioner as disqualified by issuing 2nd Corrigendum vide Annexure-7 dated 22.12.2021, which reads as follows:

“Sri Santosh Kumar Rout is actually the disqualified bidder for the work “Construction and maintenance of Kunturpadar-Nilaram Talpadar-Kutnipadar road under MMSY in the District of Malkangiri”. Erroneously it is mentioned as “Qualified” in the results of technical evaluation vide order No:5668 Dtd:20.12.2021. The same

may be read as disqualified.”

7. On perusal of the aforesaid 2nd Corrigendum issued under Annexure-7 dated 22.12.2021, it is made clear that opposite party no.4 has not assigned any reason with regard to disqualification of the petitioner. Thereby, the order impugned suffers from reason, which opposite party no.4 ought to have given.

8. Reasons being a necessary concomitant to passing an order, the authority can thus discharge its duty in a meaningful manner by furnishing the same expressly.

9. In ***Union of India v. Mohan Lal Capoor***, AIR 1974 SC 87, it has been held that reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject-matter for a decision whether it is purely administrative or quasi-judicial and reveal a rational nexus between the facts considered and conclusions reached. The reasons assure an inbuilt support to the conclusion and decision reached. Recording of reasons is also an assurance that the authority concerned applied its mind to the facts on record. It is vital for the purpose of showing a person that he is receiving justice.

Similar view has also been taken in ***Uma Charan v. State of Madhya Pradesh***, AIR 1981 SC 1915.

Similar view has also been taken by this Court in ***Patitapaban Pala v. Orissa Forest Development Corporation Ltd. & another***, 2017 (I) OLR 5 and in ***Banambar Parida v. Orissa Forest Development Corporation Limited***, 2017 (I) OLR 625.

10. In such view of the matter, this Court is of the considered view that the matter is required for reconsideration

as has been admitted by the learned Government Advocate. Thereby, the impugned 2nd Corrigendum dated 22.12.2021 under Annexure-7 issued by opposite party no.4 deserves to be quashed and accordingly the same is hereby quashed. The matter is remitted back to opposite party no.4 for its reconsideration and passing a reasoned and speaking order as expeditiously as possible preferably, before the tender is finalized, and communicate the result to the petitioner.

11. With the above observation and direction, the writ petition is disposed of.

12. Issue urgent certified copy as per rules.

13. A free copy of this order be handed over to Mr. J.P. Patnaik, learned Government Advocate for its immediate compliance.

Alok

