

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 4811 of 2022

Sanjay Kumar Agarwal

.....

Petitioner

Mr. S.A. Acharya, Adv.

Vs.

*Hindustan Steelworks Construction
Ltd. and another*

.....

Opposite parties

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE V. NARASINGH

ORDER

18.02.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. The petitioner has filed this writ petition seeking direction to the opposite party no.2 to evaluate and accept the bid of the petitioner, taking into account the EMD declaration under Annexure-4.

3. Mr. S.A. Acharya, learned counsel for the petitioner contended that as per the requirement of the tender though the petitioner has submitted the EMD under the heading “Proforma for Declaration towards EMD”, which has been annexed as Annexure-3 series at page 61 of the brief, but actually the same has to be submitted under the heading “Declaration towards EMD”, which has been annexed as Annexure-4 at page-178 of the brief. As such, because of error in description of the heading of form, the bid of the petitioner has been rejected. Therefore, the petitioner has approached this Court by filing the present writ petition seeking direction to the opposite parties to accept his declaration made in Annexure-4 and reconsider his bid in accordance with law.

4. In course of hearing, this Court made a query as to whether

the Court can change the conditions of the contract? Mr. S.A. Acharya, learned counsel for the petitioner fairly contended that the conditions of the contract cannot be changed by the Court, but, since there was minor error, the petitioner only seeks indulgence of the Court.

5. Be that as it may, this Court is of the considered view that once the tender is defective one, the Court cannot change the conditions of the contract to validate the tender for the purpose of determination of right in favour of the bidder.

6. Accordingly, the writ petition merits no consideration and the same is dismissed.

Ashok



(DR. B.R. SARANGI)
JUDGE

(V. NARASINGH)
JUDGE