

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.4887 of 2022

Devi Prasad Dash

....

Petitioner

Mr. Bibhu Prasad Das, Advocate

-Versus-

State of Odisha & others

....

Opposite Parties

Mr. S.S. Kanungo, A.G.A.

CORAM:

JUSTICE C.R. DASH

JUSTICE SAVITRI RATHO

ORDER

28.02.2022

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual / Physical) Mode.
 2. Heard learned counsels for the parties.
 3. This writ petition has been filed challenging acceptance of the bid of Opposite Party No.5 as an SC candidate. Admittedly, the Petitioner is a candidate belonging to General category and Opposite Party No.5 is the L-1.
 4. Grievance of the Petitioner is that, Opposite Party No.5 has not deposited 100% of the EMD claiming himself to be an SC candidate on the basis of affidavit filed by him, vide Annexure-5.
 5. It is submitted by learned counsel for the Petitioner that, according to Clause-6(e) of the Tender Documents, Opposite Party No.5 should have filed self-attested copy of the Caste Certificate

issued by the competent authorities in case of SC/ST Contractor desirous of availing preference.

6. In the present case, Opposite Party No.5 has admittedly availed preference by depositing 50% of the EMD. But, according to the learned counsel for the Petitioner, he has not complied with Clause-6(e) of the Tender Documents.

7. As it is a Tender matter and it involves the work of public importance, we do not want to keep the case pending. Accordingly, we dispose of this Writ Petition with the following observations :-

- (i) The concerned Department is directed to find out whether Opposite Party No.5 has complied with Clause-6(e) of the Tender Documents, besides filing an affidavit vide Annexure-5.
- (ii) If he has not filed that document, the Department should take resort to Clause-6(h) within a period of two weeks from the date of receipt of a certified copy of this order and refloat the Tender.

8. In an outline we direct that, if the Petitioner can be equated with the General category candidate and if he can deposit 100% of the EMD without violating the conditions of Tender Documents, that can be drawn in the interest of the public. The entire exercise be over within a period of two weeks from the date of receipt of a certified copy of this order.

9. Learned counsel for the Petitioner is directed to file necessary requisites by Thursday (03.03.2022) for communication of the order along with a copy of the writ petition to the Opposite Parties.

10. Till the aforesaid exercise is undertaken and completed, no work order be issued in favour of anybody.

11. Urgent certified copy of this order be granted as per rules.

S.K.Parida

