

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 7310 of 2022

***Anil Security Services &
Anr.***

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Petitioner

Mr. A.K. Mishra, Advocate

Vs.

Union of India & Anr.

.....

Opposite parties

Mr. P.P. Behera, CGC

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

21.03.2022

Order No.

01

This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Mishra, learned counsel for the petitioners.

3. The petitioners have filed this writ petition seeking to quash Annexure-8 dated 05.03.2022, the notice issued by opposite party no.2 inviting tenders for engagement of agency for providing agricultural field operation services, experimental field operation services and estate maintenance including landscaping & gardening services on job contract basis at ICAR-Central Institute for women in Agriculture, Bhubaneswar.

4. Mr. A.K. Mishra, learned counsel for the petitioners contended that earlier a similar type of tender was issued on 03.01.2022 vide Annexure-3, wherein an eligibility criteria was prescribed in Clause-21 (a) to the effect that “certificate of registration of the firm and the license for operating labour services in Odisha as per applicable Rules/Act” is required to

enclosed and uploaded with the tender form. Similarly, at serial no.3 of the check list for evaluation of technical bid in Schedule-III, it was provided that a tenderer should have “last three years continuous experience of the firm in the field of providing such services in Central Govt. establishments/Autonomous bodies of Govt. of India/Corporations of Govt. of India/reputed public or private organizations’ provide the details in enclosed tabular form”. But the said tender was not been given effect to and was cancelled by the authority on 31.01.2022 due to administrative reasons, though the petitioner had qualified in the said tender. Thereafter, the present tender notice has been issued in Annexure-8 dated 05.03.2022 enumerating the eligibility criteria in Clause-21(a) to the effect that “certificate of registration of the firm and the license for operating labour services as per applicable Rules/Act” is required to be enclosed and uploaded along with the tender form, thereby deleting the word “Odisha”. Likewise, at serial no.3 of the check list for evaluation of technical bid under Schedule-III, it has been indicated that “last three years (i.e. 2018-19, 2019-20 & 2020-21) continuous experience of the firm in the field of providing services preferably in Central Govt. establishments/Autonomous bodies of Govt. of India/Corporations of Govt. of India/reputed public or private organizations’ provide the details in enclosed tabular form”. Thereby, the petitioner has been prejudiced for such action of authority.

5. Mr. P.P. Behera, learned Central Government Counsel appearing for the opposite parties contended that the

stipulation of tender conditions is within the complete domain of the authority, which the petitioner cannot assail under Article 226 of Constitution of India.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, this Court finds that the arguments advanced by learned counsel for the petitioner, that once the tender conditions were fixed in tender notice under Annexure-3, pursuant to which the petitioner was qualified, the same should not have been changed in subsequent tender notice under Annexure-8 and, as such, deletion of the word “Odisha” from Clause-21(a) and insertion of words and figures at serial no.3 of the Schedule-III has caused prejudice to the petitioner, is not legally tenable. In view of such position, this Court is of the considered view that it is the complete domain of the tender issuing authority to add or alter any tender condition in the larger interest of the public. As such, nothing has been placed before this Court to show exercise of any arbitrary and unreasonable power in fixation of such criteria.

7. Therefore, this Court is not inclined to entertain the writ petition, which is accordingly dismissed.

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(DR. B.R. SARANGI)
JUDGE

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(SAVITRI RATHO)
JUDGE