

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 12399 of 2022

***Siddhartha Engineering
Limited, Bhubaneswar***

.....

Petitioner

*Mr. L. Pangari, Sr. Advocate along
with Mr. S. Mishra, Advocate*

Vs.

***Odisha Power Transmission
Corporation Limited(OPTCL),
Bhubaneswar and another***

.....

Opposite Parties

Mr. B.P. Tripathy, Advocate (O.P.1)

CORAM:

DR. JUSTICE B.R. SARANGI

Mr. JUSTICE G. SATAPATHY

ORDER

22.09.2022

Order No.

05.

This matter is taken up through hybrid mode.

2. Heard Mr. L. Pangari, learned Senior Counsel appearing along with Mr. S. Mishra, learned counsel for the petitioner and Mr. B.P. Tripathy, learned counsel appearing for the opposite party no.1.

3. The petitioner has filed this writ petition seeking to quash clause-4.2.2 of the Notice Inviting Tender bearing NIT No. CPC-39(I)/2021-22 under Annexure-10, as the same is arbitrary, illegal, unfair, unjust, discriminatory and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India, and further seeks to declare that the application before the Medium Small Enterprises Facilitation Council under Annexure-8 is not a litigation of the petitioner against the opposite party no.1, i.e., OPTCL and the petitioner cannot be disqualified from participating in any tender submitted or to be submitted by it before the opposite party no.1.

4. Pursuant to notice issued by this Court, Mr. B.P. Tripathy, learned counsel enters appearance on behalf of opposite party no.1 and produces written instructions before

this Court, which reads as follows:

“Sir,

Inviting reference to the above noted subject I am directed to say that after taking legal opinion, order of MD OPTCL was obtained to proceed in other tenders of CPC i.e., no NIT 45 of 2021-22, NIT no 53 of 2021-22 and NIT no 61 of 2021-22 where SEL is a participant/bidder. Accordingly, the same is placed before the PSC which was held on 19th September. Further tender process will be followed accordingly. Prior to these developments in tender no NIT 14 of 2021 price bid of SEL has been opened. This is for your kind information. You may pls place this development before the Hon'ble Court if necessary.”

He, however, contends that pendency of the case before MSME will not be a bar to consider the tender submitted by the petitioner or any other party.

5. In view of such position, since the tender of the petitioner has been rejected during pendency of the case before the MSME, such order of rejection cannot sustain in the eye of law. Thereby, the opposite parties are directed to reconsider the tender of the petitioner in accordance with law ignoring the pendency of the case before the MSME. Needless to say that the other tenders of the petitioner, which are also under consideration, should not be debarred from consideration because of the pendency of the case before MSME and, as such, pendency of the case before MSME will not be a bar to consider the tender submitted by the petitioner or any other party

6. With the above observation and direction, the writ petition stands disposed of

7. Interim order passed earlier stands vacated. .

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE

