

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 21693 of 2022

RAPS Infratech Pvt. Ltd & another

Petitioners

*Mr. G.Mukherjee, Sr. Advocate along with
Mr. A. Mishra, Adv.*

Vs.

State of Odisha & others

Opposite Parties

Mr. D.Nayak, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

06.09.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. G. Mukherjee, learned Senior Counsel appearing along with Mr. A. Mishra, learned counsel for the petitioners and Mr. D.Nayak, learned Addl. Government Advocate appearing for the State-opposite parties.

3. The petitioners have filed this writ petition seeking to quash the letter dated 16.8.2022 issued by Superintending Engineer Kalahandi (R & B) Division under Anneuxre-9, by which the tender for the work "Improvement to Ampani Dharamgarh road (ODR) from 0/00 km to 15/00 in the district of Kalahandi under State Plan" has been cancelled.

4. Mr. G. Mukherjee, learned Senior Counsel appearing along with Mr. A. Mishra, learned counsel for the petitioners contended that the petitioner no.1 being the bidder in respect of the tender in question, its bid was accepted and Letter of Acceptance was issued in its favour and, as such, vide letter dated 21.06.2022, the authority called upon petitioner no.1 to attend the office along with all documents and required APSD, EMD/ISD within 7 days. Though petitioner no.1 deposited the EMD/ISD amount, but could not be able to deposit the APSD amount because of his illness and, as such, it could not turn up to do so on the date fixed. As a consequence thereof,

steps have been taken to cancel the tender and also proceeding has been initiated for blacklisting the contract licence of the petitioners. Therefore, the petitioners have approached this Court by filing the present writ petition.

5. Mr. D. Nayak, learned Addl. Government Advocate appearing for the State-opposite parties contended that since petitioner no.1 was selected in the tender process and Letter of Acceptance was issued in its favour, it has to take the follow up action by executing the agreement and also depositing the statutory amount. The same having not been done, notice was issued to petitioner no.1 on 21.6.2022 to come with the documents along with the required APSD, EMD/ISD within seven days. In spite of letter issued, it did not turn up to do so and thereby again two reminders were issued on 04.07.2022 and finally on 02.08.2022 to deposit the required APSD, EMD/ISD, latest by 11.8.2022 for drawal of agreement. But the same was not complied with, as a consequence thereof, steps have been taken for cancellation of the contract and also proceeding has been initiated for blacklisting of the contract licence of the petitioner vide Annexure-9. Thereby, no illegality or irregularity has been committed by the authority.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that petitioner no.1 was selected by due process of tender to undertake the work "Improvement to Ampani Dharamgarh road (ODR) from 0/00 km to 15/00 in the district of Kalahandi under State Plan". After being selected, petitioner no.1 was issued with Letter of Acceptance for the said work and also request was made to the petitioner no.1 by the authority on 21.06.2022 to attend the office with all documents and required APSD, EMD/ISD within 7 days. But in spite of request made, petitioner no.1 did not turn up to do so, on the ground that he was suffering from illness and was not available on that date i.e.

21.6.2022. But thereafter two more reminders were issued on 04.07.2022 and finally on 02.08.2022 to deposit the required APSD, EMD/ISD i.e. by 11.8.2022 for drawal of agreement.

7. In course of hearing, this Court called upon learned Senior Counsel appearing for the petitioners to apprise the Court as to what response has been made pursuant to letter dated 04.07.2022 and letter dated 02.08.2022 issued by the authority. But nothing has been placed on record to that effect and, as such, he is unable to indicate as to what response has been made by the petitioners pursuant to the aforesaid letters. Though the authorities have given opportunity to petitioner no.1 to comply with the terms and conditions prescribed in the tender, but the same has not been done. Therefore, the opposite parties have taken steps in accordance with the Government of Odisha in Works Department Memorandum No. 4559 dated 05.04.2021 for cancellation of tender as well as for initiation of proceeding for blacklisting of contract licence of the petitioner no.1.

8. In the above view of the matter, since the petitioners have not adhered to the terms and conditions of the contract itself and, as such, the developmental work has been struck-off due to in-action on the part of the petitioners, this Court is not inclined to entertain the writ petition.

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

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE