

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 23078 of 2022

*Dreamwave Cellular Private
Limited & another*

.....

Petitioners

Mr. R.Roy, Advocate

Vs.

Coal India Limited & others

.....

Opposite Parties

Mr. P. P .Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

08.09.2022

Order No.
01.

This matter is taken up through hybrid mode.

2. Heard.

3. This writ petition has been filed by the petitioners seeking for a direction to the opposite parties to accept bid of the petitioners and in case their technical bid is evaluated and found that they are technically qualified, then to consider their price bid along with others which is to be opened on 20.09.2022.

4. Mr. R. Roy, learned counsel for the petitioners contended that as per the Notice Inviting Tender dated 18.7.2022 the petitioners have uploaded all the documents along with the E.M.D. at 4.30 P.M. on 27.08.2022. But due to server down the petitioners bid could not reach within the time stipulated and, therefore, the petitioners could not participate in the bid itself. It is further contended that in the event an opportunity is given to the petitioners they can participate in the bid and get the benefit of award of tender in the event they satisfy the requirement of NIT. It is further contended that due to non-acceptance of the documents which has been submitted by petitioners within the time specified, the EMD amount has already been refunded to the petitioners.

5. Having heard learned counsel for the parties and after going through the records it appears that pursuant to Notice Inviting Tender dated 18.7.2022 under Annexure-2 the petitioners have uploaded all the documents and deposited the EMD before closure of the said bid time at 4.30 P.M. But due to technical glitch the same could not be reached before the authority and as a consequence thereof, the petitioners were not allowed to participate in the bid itself. Thereby, the EMD amount which has been deposited has also been refunded to the petitioners debarring them to participate in the process of bid itself. The time is essence in contract and time has already specified in the NIT to submit the documents. Though according to the petitioners they have uploaded all the documents before closure of bid time at 4.30 P.M. but due to the server down the same could not be reached and as such they could not have been debarred to participate in the bid itself. But fact remains if the documents could not reach within the time stipulated, the petitioners cannot be permitted to participate in the process of bid after the dates stipulated in the NIT is already over.

6. In view of above, this Court is not inclined to entertain the prayer made in this writ petition, which is accordingly dismissed.

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE

Arun/Kishore