

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 37862 of 2020

***M/s. Techsupport,
Bhubaneswar***

.....

Petitioner

Mr. D.P. Nanda, Sr. Advocate

Vs.

Union of India & Ors.

.....

Opposite Parties

*Mr. P.K. Parhi, ASGI
(O.P.1)*

*Md. G. Madani, Advocate
(O.Ps.2-4)*

*Mr. D. Sarangi, Advocate
(O.P.5)*

CORAM:

DR. JUSTICE B.R. SARANGI

Mr. JUSTICE G. SATAPATHY

ORDER

06.09.2022

Order No.

12

This matter is taken up through hybrid mode.

2. Heard Mr. D.P. Nanda, learned Senior Counsel appearing along with Mr. S.R. Singhsamanta, learned counsel for the petitioner; Mr. P.K. Parhi, learned Assistant Solicitor General of India appearing for opposite party no.1; Md. G. Madani, learned counsel appearing for opposite parties no.2 to 4 and Mr. D. Sarangi, learned counsel appearing for opposite party no.5.

3. The petitioner has filed this writ petition seeking to quash the rejection of the petitioner's technical bid under Annexure-6 and the work order No.AAI/JH/AGM(E) O&M of SS, TB, NDB/WO-12/2020-21/376 dated 12/13th Jan, 2021 issued in favour of M/s. Durga Supply Agencies under Annexure-11.

4. Mr. D.P. Nanda, learned Senior Counsel appearing for the petitioner contended that the reasons for rejection of

petitioner's technical bid vide Annexure-6 dated 22.12.2020 will cause prejudice to the petitioner, in the event of issuance of fresh tender with same terms and conditions imposed by the opposite party-authority. It is contended that so far as present tender is concerned, the work order has been issued in favour of opposite party no.5 and, as such, this Court has not granted protection to the petitioner.

5. Mr. P.K. Parhi, learned Assistant Solicitor General of India appearing for opposite party no.1 contended that since separate counsel has entered appearance for Airports Authority of India, he has nothing to say and it is within the domain of the learned counsel to make statement.

6. Md. G. Madani, learned counsel appearing for opposite parties no.2 to 4 contended that pursuant to present tender, the work order having been allotted in favour of opposite party no.5, the work has been progressed for more than 50% and, as such, it is going to complete by 13th of January, 2023. At this stage, in the event this Court passes any order, it may be futile exercise of jurisdiction. As such, the opposite party-Airports Authority of India will be put to difficulty. He contended that for the self-same contract, if in future the petitioner participates, then his case will be considered in accordance with law.

7. Mr. D. Sarangi, learned counsel appearing for opposite party no.5 contended that opposite party no.5 has been awarded with the tender and after execution of agreement, more than 70% of the work has been completed in the meantime and it will be completed by 13th of January, 2023.

8. Having heard learned counsel for the parties and after going through the records, it appears that pursuant to tender call notice, since the work has been allotted in favour of

opposite party no.5 and, as such, it is at the stage of completion and it will be completed by 13th of January, 2023, it will be futile exercise to adjudicate the matter at this stage. However, if fresh tender is invited with the self-same terms and conditions of contract, it is open to the petitioner to participate in the process of tender by submitting its bid, which will be taken into consideration by the authority in accordance with law. Needless to say, against rejection of its tender, this order will not stand as a bar on the way of the petitioner to approach the appropriate forum.

9. With the above observation, the writ petition stands disposed of.

10. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE

Alok/Subhasmita

