

21.03.2023
sayandeep
Sl. No. 26
Ct. No. 05

WPA 2035 of 2023

M/s Rupa Enterprises
-Versus-
The State of West Bengal & Ors.

Mr. Swarup Paul
Mr. Surya Maity
.....for the petitioner

Mr. Tapan Kumar Mukherjee
Mrs. Saheli Mukherjee
.....for the State

The petitioner is aggrieved by a rejection of the petitioner's tender at the technical evaluation stage. The tender was floated by the State Ayurvedic Medical College & Hospital for filling up Group-D posts in different categories. The reason given in the impugned rejection is "*No Applied*".

Learned counsel appearing for the State submits that the meaning of "*No Applied*" means that the petitioner has not uploaded the Contract Labour Act Registration Certificate with the tender documents which was required to be uploaded at the relevant time.

The documents placed before the Court by learned counsel appearing for the petitioner indicates that the petitioner uploaded an application for licence dated 10th October, 2022. This would appear from an affidavit-cum-declaration which records that the petitioner has applied for Labour Licence Registration under The Contract Labour (Regulation & Abolition) Act

at Alipurduar and has also applied for new labour licence. The licence which was finally granted to the petitioner on 9th November, 2022 under the Act is also part of the records and is to remain in force till 8th November, 2023. However, since these documents were not uploaded with the tender documents, the licence finally awarded to the petitioner cannot be deemed as part of the document uploaded at the relevant point of time.

It may also be noted that Clause 19.5 of the General Instructions to Bidders of the tender procedure empowers the Committee to summon the bidders during evaluation and seek clarification/information or additional documents or original hard copies of documents submitted online. The respondents also did not take any steps under this Clause.

Whatever be the case, the reason given in the impugned rejection, which in ordinary language would mean that the petitioner has not applied for Contract Labour Registration Certificate does not appear to be supported by the material placed before the Court. The reason is hence not tenable in the relevant facts.

The argument made on behalf of the State that the work order has already been issued to a third party on 24th February, 2023 reflects the conduct of the State respondents. The writ petition was filed on 25th January, 2023 and the matter was taken up for consideration from 9th February, 2023 onwards and on

several days thereafter. The State respondents could not have proceeded to issue the work order and make the writ petition infructuous in the meantime. This is particularly when the State did appear on more than one occasion but did not file its affidavit-in-opposition within the time directed.

WPA 2035 of 2023 is accordingly disposed of by quashing the impugned decision uploaded on 27th December, 2022. The respondent No. 4 being The Principal Superintendent, J.B. Roy State Ayurvedic Medical College & Hospital will reconsider the bid of the petitioner and come to a fresh decision within three weeks from date. The order of the respondent No. 4 shall be communicated to the petitioner within one week from the date on which the decision is taken.

(Moushumi Bhattacharya, J.)