

MAT 281 of 2023
With
CAN 1 of 2023
Shiba Prosad Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Saptangsu Basu, Sr. Advocate
Mr. Swarup Paul,
Mr. Surya Maity,
Mr. Anish Roy,
Mr. Soumitra Naskar, Advocates
... for the appellant

Mr. Amitesh Banerjee, Id. Sr. St. Counsel
Mr. Tarak Karan, Advocate
... for the State

Mr. Anubhav Sinha, Advocate
... for the respondent No. 4

By this intra-court appeal, writ petitioner has challenged the order of the learned Single Judge dismissing W.P.A 20522 of 2022.

Appellant had participated in the tender process in response to the notice inviting tender dated 12.02.2021 issued by respondent No.3 for supply of cooked diet for the indoor patients of Belur ESI (TB) Hospital. The bid of the appellant was rejected, hence the rejection order dated 07.10.2021 was the subject matter of challenge in the petition.

Learned Single Judge has dismissed the petition finding the reason of rejection of the bid to be correct

and also noting that the subsequent document annexed with the writ petition and relied upon by the appellant was not uploaded with the tender document.

Submission of learned Counsel for the appellant is that the appellant was having a valid MSME UAM Certificate which is also clear from the subsequent report submitted by the respondent No. 5 dated 2nd of January, 2023, therefore, the rejection of bid cannot be sustained.

Learned Counsel for the State opposing the petition has submitted that there was no validity date in the certificate submitted by the petitioner and that the petitioner has not approached the writ Court with clean hands as he has submitted the MSME Certificate which was not uploaded and that another MSME Certificate is of a proprietorship concerned whereas the petitioner is a partnership firm.

Having heard learned Counsel for the parties and on perusal of the record, it is noticed that the MSME Certificate submitted by the petitioner along with bid admittedly did not contain the valid period and it did not disclose that the same was valid on the date of its submission. The bid of the petitioner had been rejected on the ground that "Up to date MSME certificate not submitted. So, Not Eligible". The petitioner had enclosed another certificate in support of the plea that he was

having a valid MSME registration during the relevant time, but learned Single Judge has also taken note of the fact that the petitioner is a partnership firm and the MSME Certificate submitted by the petitioner relates to a proprietorship concerned. Same was the fact mentioned in the report of the respondent No. 5 on which the appellant is relying upon. Learned Single Judge has taken note of the admitted position in paragraph 11 of the order as under:

“11. The above facts lead to the following admitted position; First, the document uploaded by the petitioner on 12.2.2021 did not reflect a validity date. Second, the subsequent document annexed to the writ petition (but not uploaded with the Tender documents) contains a validity date. Third, both the documents reflect a sole proprietorship as opposed to the projected status of the petitioner (Partnership firm) on the date of participating in the Tender and even at the time of filing of the present writ petition. Fourth, the petitioner has not been able to answer as to why the later document containing the validity date annexed to the writ petition was not uploaded by the petitioner on 12.2.2021. Fifth, since the document uploaded on 12.2.2021 did not have a validity date, the tendering authority / respondent nos. 2 and 3 did not have a valid Certificate before them which could be used for the purpose for which the document was being uploaded.”

The above admitted position clearly reflects that no error has been committed by the learned Single Judge

in upholding the order of rejection of bid. Hence, we are of the opinion that no case for interference in the present appeal is made out which is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rai Chattopadhyay, J.)