

19.06.2024
Item No.22
gd/ssd

MAT/1082/2024
IA NO:CAN/1/2024, CAN/2/2024
H M ENTERPRISE
VS
STATE OF WEST BENGAL AND ORS.

Mr. Pranit Bag,
Mr. A.K. Mishra,
Mr. Sumit Mishra
..for the Appellant.

Mr. Sk. Md. Galib,
Mr. Rajarshi Basu,
Mr. Abu Siddique Mallik,
Ms. Subhasri Chatterjee
..for the State.

1. The unsuccessful writ petitioner is the appellant before us by way of this intra court appeal challenging the correctness of the order passed in the writ petition dated 17.05.2024.

2. The matter relates to a tender called for by the respondent/department for Selection of Private Partner for Establishment, Operation, Maintenance and Management of Fair Price Medicine Shops for drugs and medicines, consumables at different Government Hospitals under Public Private Partnerships (PPP) Mode.

3. The short issue is whether the appellant had satisfied the requirements for its technical bid to be evaluated.

4. In the conditions of the tender it has been clarified that the bid documents would also include any clarification which may be sought for from time to time and has been clarified by the tender inviting authority.

5. After the appellant submitted its bid he sought for a clarification with regard to the nature of documentary proof which is required to be produced from the competent person with regard to the number of persons engaged by the appellant.

6. The same was clarified by the authority concerned in a pre-bid meeting which was held in which the appellant participated and the response not only has been informed to the appellant, but also uploaded in the website of the department. The clarification/response was that the bidders need to submit their application to certify the names of the competent persons to the respective officers of the Drug Control Directorate as per prescribed qualifications under the Drugs Rules, 1945. The copy of the receipt of the application needs to be submitted along with the bid.

7. With regard to this opportunity which was granted to the appellant, the same was intimated to the appellant by e-mail dated 20th February, 2024 stating that the clarification should be submitted before 21st February, 2024 at 2.00 p.m.

8. The allegation made by the appellant is that the e-mail was not received.

9. However, it has been established by the respondent/department that in Annexure-III which was furnished by the appellant which contains the details of the bidders it is the same e-mail which has been furnished by the appellant.

10. That apart, the appellant has also responded from the very same e-mail number.

11. Therefore, the said e-mail was not received, cannot be accepted.

12. Subsequently, it appears that the appellant has furnished a list of eight competent persons which, according to the appellant, are persons in addition to the existing list.

13. However, this list was submitted much after the due date i.e. on 23rd February, 2024.

14. Therefore, the authority declined to consider the same.

15. In any event, the scope of the interference in the tender process are quite limited and clearly delineated with by the Hon'ble Supreme Court and we find that the appellant is not made out any case to bring any exceptional circumstances to interfere with the decision of the tender inviting authority.

16. For the above reasons, no grounds have been made out to interfere with the order passed by the learned Single Bench.

17. Accordingly, the appeal fails and the same is dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)