

September 24, 2024
Sl. No.6
Court No.9
s.biswas

WPA 24160 of 2024

United Order and Supply Cooperative Society Limited
vs.
Union of India and others

Mr. Surojit Sinha Roy

... for the petitioner

Mr. Uday Chakravarty

Ms. Sabita Roy

... for the Union of India

Mr. Arjun Roy Mukherjee

Mr. D. Mitra

... for the SAIL IISCO

1. The writ petition is disposed of, upon setting aside the order of debarment, on the ground of violation of principle of natural justice.
2. It is an admitted position that the Senior Manager (Contract Cell), Steel Authority of India Limited had cancelled the earlier tender in which the petitioner emerged L1 bidder and had informed the petitioner that based on the adverse report from the DSP, SAIL, the petitioner was debarred from participating in the re-tendering process.
3. First and foremost, the order was passed without issuing the show cause notice to the petitioner. The petitioner was not asked to answer to the complaint/allegations, that were levelled against him. The authorities passed a direction debarring participation of the petitioner in the re-tendering process, although the petitioner was the successful bidder in the cancelled tender.

4. Mr. Roy Mukherjee, learned advocate appearing for the tendering authority, submits that the authority reserves the right to cancel a bid or debar a tenderer, if adverse reports from other units with regard to past performance of such bidder were received.
5. There is no doubt with the proposition of Mr. Roy Mukherjee that the tendering authority has the right to run a background check and cancel a bid, if any adverse report is received.
6. The question arises as to whether the debarment of the petitioner from participating in the re-tender, without following the due process of law, should be permitted by court. The answer is in negative. The petitioner ought to have been given an opportunity to reply to the allegation against him. The adverse report should have been supplied to the petitioner and thereafter the authority should have decided the matter upon granting adequate opportunity to the petitioner to make his submissions on the basis of the records.
7. Under such circumstances, the order of debarment is set aside. The petitioner is directed to participate in the second tender immediately. The bids will not be opened until the decision is reached by the authorities with regard to the issue of debarment. A show cause notice shall be

issued to the petitioner with specific allegations and the report relied upon by the authority in this regard shall be supplied. Upon receipt of such show cause, the petitioner will file his reply with his documents. The authority shall hear the matter and pass necessary orders. Thereafter, on the date of the hearing, the authority can proceed in accordance with law.

8. This court has not gone into merits of allegation and counter-allegation.
9. Accordingly, the writ petition is disposed of.
10. All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)