

04-11-2024
Item No.4
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.26532 of 2024
Shake Intaz

-vs-

The State of West Bengal & Ors.

Mr. Sanjay Mukherjee
Mr. Arghadip Das ...for the petitioner

Mr. Swapan Banerjee
Ms. Sumita Shaw
Mr. Soumen Chatterjee ...for the State

Mr. Amit Kumar Ghosh ...for respondent no.6

Mr. Uddipan Banerjee
Mr. Subhrakanti Samanta ...for respondent no.7

1. The writ petition is in connection with notice inviting e-Tender No.10 of 2024-25 Sl. No.1 dated August 12, 2024 issued by the Executive Engineer (A-I), Midnapore Agri-Irrigation Division, Paschim Medinipore. The estimated amount put to tender is Rs.1,53,08,034/-. The petitioner along with the private respondents participated in response to the notice inviting e-tender. The bid of the petitioner stood rejected in the technical stage on September 30, 2024 on the grounds that "in affidavit and agreement, signature is not original. It is computer edited."

2. Being aggrieved by the same, the petitioner approached this court by way of a writ petition being WPA No.25500 of 2024 which stood disposed of on October 7, 2024 directing the tendering authority to consider the writ petition as a representation and inform

the petitioner why the documents submitted by him were suspected to be forged and fabricated. The court further directed the authority to show the copies of the affidavits of other bidders to the petitioner to demonstrate about the defects, deficiencies and illegalities in the documents of the petitioner. The matter was directed to be decided within October 20, 2024 while the financial bid was directed not to be opened till November 5, 2024.

3. By a communication dated October 22, 2024 the tendering authority communicated the petitioner the fate of the consideration of the representation of the petitioner. The affidavits of other participants were forwarded along with the said communication. Being dissatisfied with the grounds taken in the communication dated October 22, 2024, the present writ petition has been filed.

4. It is submitted on behalf of the petitioner that, apart from the original grounds of rejection, fresh grounds have been taken to reject the technical bid of the petitioner. The petitioner has annexed the documents forwarded by the tendering authority and has tried to impress the court that the documents submitted by the petitioner are all proper and in accordance with the notice inviting e-tender. The documents of the private respondents which have been accepted by the tendering authority are not in accordance with the terms and conditions of the NleT. Prayer has been made to either set aside the entire tender process or to reconsider the bid of the petitioner.

5. Learned advocate representing the private respondents submits that all documents have been submitted and that their bid has been considered in accordance with the NleT.

6. Learned advocate representing the State being the tendering authority submits that the petitioner has already agitated all the points in the earlier writ petition which, after hearing the parties, was disposed of by this court and the authority acted in strict compliance of the order passed by the court. The terms and conditions in the Notice Inviting e-Tender were strictly followed at the time of consideration of the bid of the participants.

7. It has been admitted by all the parties that the financial bid is yet to be opened.

8. Upon hearing all the parties, it appears that the estimated amount put to tender is a huge one. The tender has been floated for construction of a check dam. All documents are required to be submitted online digitally signed by the bidders with self-attestation and seal.

9. The tendering authority has forwarded to the petitioner the documents of the private respondents being the bidders in connection with the said NIeT.

10. Learned advocate for the petitioner has painstakingly drawn the attention of the court to the discrepancies of the tendering authority at the time of consideration of the documents submitted by the bidders.

11. It appears that in the earlier writ petition the court had directed the tendering authority to show the petitioner a copy of the affidavits of the other bidders. However, the same has not been done. The documents of the other bidders have been forwarded to petitioner. On a perusal of the said documents, further discrepancies came to light.

12. As the project is in respect of the public purpose and proper transparency ought to be maintained at the time of selection of the successful bidder, the court directs the Secretary, Water Resources Investigation and Development Department, West Bengal, the second respondent herein, to give a personal hearing to all the bidders, including the petitioner, to decide the issue relying upon documents which are already on record.

13. The Secretary shall consider the documents apropos the Notice Inviting e-Tender dated August 12, 2024 and thereafter decide upon the successful bidder.

14. Steps shall be taken by the Secretary at the earliest but positively within a period of three weeks from the date of communication of this order.

15. All the participants will be given liberty to rely upon the documents already submitted by them and no new documents will be permitted to be relied upon by any of the parties. The bidders may be permitted to be represented by their legal representative.

16. A final order shall be passed and communicated to the parties. Financial bid shall be opened only after the technical bid process is completed.

17. It will be open for the Secretary to peruse the documents submitted by the parties before the tendering authority at the time of taking a decision in the matter.

18. WPA No.26532 of 2024 stands disposed of.

19. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

