

Court No. 9

WPA 25665 of 2023

15.05.2024

(AD 56)

(S. Banerjee)

Md. Nur Alam Sk.

Vs.

The State of West Bengal & Ors.

Mr. Joydip Kar, Sr. Advocate
Mr. Mohan Kumar Sanyal
Mr. Dwipayan Sanyal
Mr. Arunesh Pathak

... for the petitioner

Sk. Md. Galib
Mr. Tamal Taru Panda

... for the State

The present challenge has been preferred against the rejection of the petitioner's bid in a tender process floated by the respondent authorities for the purpose of carrying-cum-storage contractors of food staff for different ICDS projects under the Murshidabad district. The petitioner's bid in question was restricted to Nowda.

The sole ground of rejection of the petitioner's bid, although the petitioner was the lowest bidder, was that it appeared in the statement that the rate offered by the petitioner and the other lowest bidders were much higher in comparison with the rate of the previous year. Insofar as the petitioner is concerned, in the impugned order of rejection annexed to the writ petition, the rate of the previous year (2022-23) per quintal was

mentioned as Rs. 25/- whereas the present offered rate for the financial year 2023-24 is Rs. 70/- per quintal.

It is argued that there being no such clause restricting the offer of the prospective bidders within a certain limit vis-à-vis the previous rates, such ground of rejection is contrary to the tender terms and thus invalid.

Upon hearing learned counsel, it transpires that there is no stipulation in the tender terms, which have been annexed from page 16 onwards of the writ petition, regarding there being any restriction as to the offer of the prospective bidder either being below particular ceiling limit or such offer being within a particular zone of difference with the previous years' rates.

Although learned senior counsel appearing for the petitioner has fairly pointed out that there is a clause in the tender document, being Clause 25, which reserves the right of the authority to cancel any or all tenders without assigning any reason, the said clause has to be read in consonance with the established principles of natural justice, which includes within its domain the necessity to attribute proper reasons, which is the soul of any decision.

In the absence of any cogent reason whatsoever, and more so since there is no restrictive clause in the

tender document preventing a bidder from quoting a bid which might be much higher than the previous years' rates, the sole ground of rejection of the petitioner's bid was invalid.

Accordingly, WPA 25665 of 2023 is allowed, thereby setting aside the rejection of the bids of the petitioner and all the other similarly placed bidders as reflected at page 26 of the writ petition. The respondent authorities shall now reassess the tender documents from the stage immediately before the said rejection of the petitioner's and other five similarly placed bids and conclude the tender process as expeditiously as possible in accordance with law and the tender terms.

Any consequential step taken pursuant to the rejection of the petitioner's bid, shall also be reversed.

There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the respective parties upon compliance of requisite formalities.

(Sabyasachi Bhattacharyya, J.)