

24-12-2024
Item No.4
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.30243 of 2024
M/s. Quality Caterer & Ors.
-vs-
The Union of India & Ors.

Mr. Arkadipta Sengupta
Mr. Aranya Saha
Mr. Tirthankar Dey ...for the petitioners

Mr. Souvik Nandi
Ms. Anamika Pandey
Mr. G. Pandey
Ms. Bipasha Jaiswal ...for the Union of India

Mr. Ayan Poddar
Mr. Ayan Dutta
Ms. Shweta Bharti
Ms. Yashodhara Burmon Roy
Ms. Darshita Sethia ...for respondents no.2 & 3

1. The writ petition arises out of a tender process floated in the GeM portal by the Ministry of Railways for supply of Healthcare Kitchen and Dietary Service. The petitioners participated in the tender process and were evaluated as the L1 bidder. The bid of the petitioners was cancelled after technical evaluation on the grounds that they did not upload the requisite documents.
2. According to the petitioners, the documents which were sought for were not mentioned in the notice inviting tender and, accordingly, the petitioners were not required to submit those documents.
3. The petitioners submit that they got to learn about their disqualification on December 5, 2024 and

that a representation was made via electronic mail to the concerned authority on December 15, 2024.

4. The petitioners submit that the respondent authorities relied upon the non-essential criteria/documents even though the petitioners possessed all the mandatory required qualifications and the documents.
5. It has also been submitted that the authority ought to have specifically intimated the petitioners the documents which were wanting from them. The difference between the bid amount of the L1 and the L2 bidder is nearly Rs.12 lakh. The petitioners ought to have been given opportunity to rectify their bid.
6. Learned counsel representing the first and fourth respondents (the Union of India) submits, upon instructions, that the documents which were required to be uploaded by the bidder are clearly mentioned in the bid document. Even though the petitioners claim that the requisite mandatory documents were uploaded, but those documents were not visible when the authority clicked on those items to view the same.
7. It has further been submitted that there is no modification of the mandatory requirement and that the petitioners had two days' time to submit the documents which were wanting. The petitioners did not submit those documents. The authority proceeded to issue work order in favour of the next lowest bidder, that is, L2 bidder on December 10, 2024.
8. It appears that the instant writ petition was affirmed on December 18, 2024. Prior thereto, the representation was made by the petitioners only on December 15, 2024. Before approaching the

authority and filing the writ petition, the work order was issued in favour of the next successful bidder.

9. It further appears that the petitioners have not acted with the promptness which was required, especially in view of the item category in which the petitioners were bidding. The successful bidder was required to supply food to the hospitals and the authority could not have waited for a bidder to rectify its bid.
10. In view of the above, the court is not inclined to exercise jurisdiction in the matter.
11. The writ petition thus fails and is hereby dismissed.
12. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
13. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

