IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE SUBHASH UPADHYAY

WRIT PETITION (M/B) NO. 932 OF 2026

5TH NOVEMBER, 2026

SIDCUL Solution Network ..... Petitioner

Versus

State of Uttarakhand and others ..... Respondents

Counsel for the petitioner : Mr. S.K. Mandal, learned counsel

Counsel for the respondents : Mr. B.S. Parihar, learned Additional Chief Standing Counsel with Mr. Sachin Mohan Singh Mehta, learned Standing Counsel for the State

: Mr. Devendra Singh Bohra, learned counsel for respondent No. 4

The Court made the following:

JUDGMENT: (per Sri Manoj Kumar Tiwari, A.C.J.)

1) Petitioner has challenged Condition Nos. 4, 5, 6, 7 and 11, as mentioned in the bid document, issued by Municipal Board, Mahuakhera Ganj, District Udham Singh Nagar.

2) The English translation of Condition Nos. 5, 6, 7 and 11 are reproduced below :

> "5. Work orders of any 05 Municipal Boards in solid waste management / experience certificate regarding 05 years satisfactory completion of work; especially in door to door collection, transportation, MRF, composting, recycling / compacting and experience certificate of RDF disposal.

> 6. Certificate duly issued by the competent authority specifying that the firm has satisfactorily completed the work in the Boards/Institutions. There is mention of 05 Boards / 05 years experience in the original file.
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> 7. CV and education/experience certificate of Environment Specialist/Technical Specialist. In the original documents options like post graduation in Environment and 03 years experience, or concerned specialization in Environment / MSW specialization, or Civil Engineering graduate and 03 years experience, are mentioned.
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> 11. Proof relating to at least 05 suitable commercial/ availability of 05 cleaning vehicles… Legal affidavit relating to photocopies of Registration Certificate or affidavit regarding availability of vehicles.

3) Learned counsel for the petitioner submits that aforementioned conditions stipulated in the technical bid of the tender issued by the Municipal Board are harsh and hyper technical conditions, and failure on the part of the petitioner to fulfill these conditions, would debar the petitioner from participating in the tender process. Learned counsel further submits that condition No. 11 which stipulates that registration certificate of five commercial vehicle is to be provided by a bidder, is arbitrary inasmuch as the Municipal Board has its own vehicles and vehicles of the contractor is not required at all. He further submits that the conditions put in the technical bid of the tender are illegal. Lastly, it is submitted that technical bid condition Nos. 4, 5, 6, 7 and 11 stipulated in the e-tender bid dated

28.10.2026, issued by the Municipal Board, are liable to be quashed.

4) The contention raised on behalf of the petitioner cannot be accepted. The petitioner has yet not participated in the tender process and has not made any offer. Even otherwise also, a bidder, who participates or intends to participate in the tender process, has no other right except a right to equality and fair treatment in the evaluation of competitive bids. The authority inviting bids is not bound to act according to the whims and fancies of a bidder.

5) Hon'ble Supreme Court in the case of ***Directorate of Education & others Vs. Educomp Datamatics Ltd. & others reported as (2004) 4 SCC 19*** has held that terms of the invitation to tender are not open to judicial scrutiny, as the same are in the realm of contract. Para 12 of the said judgment is reproduced below:-

> "12. It has clearly been held in these decisions that the terms of the invitation to tender are not open to judicial scrutiny, the same being in the realm of contract. That the Government must have a free hand in setting the terms of the tender. It must have reasonable play in its joints as a necessary concomitant for an administrative body in an administrative sphere. The courts would interfere with the administrative policy decision only if it is arbitrary, discriminatory, mala fide or actuated by bias. It is entitled to pragmatic adjustments which may be called for by the particular circumstances. The courts cannot strike down the terms of the tender prescribed by the

> Government because it feels that some other terms in the tender would have been fair, wiser or logical. The courts can interfere only if the policy decision is arbitrary, discriminatory or mala fide."

6) Also, in the case of ***Afcons Infrastructure Limited v. Nagpur Metro Rail Corporation Ltd., reported in (2016) 16 SCC 818***, Hon'ble Supreme Court has held as under:-

> "13. In other words, a mere disagreement with the decision making process or the decision of the administrative authority is no reason for a constitutional court to interfere. The threshold of mala fides, intention to favour someone or arbitrariness, irrationality or perversity must be met before the constitutional court interferes with the decision-making process or the decision."

7) In *Afcons Infrastructure Limited* (supra), it was further held that the owner or employer of a project, having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents; constitutional Courts must defer to his understanding and appreciation of the tender documents, unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. It was further held that it is possible that the owner or employer of a project may give an interpretation to the tender documents, which is not acceptable to the Constitutional Courts, but that by itself is not a reason for interfering with the interpretation given.

8) In view of the settled law on the point, challenge thrown by the petitioner to conditions in the tender notice cannot be entertained. The conditions cannot be said to be tailor made to suit some rival bidder. Since every bidder would have to meet the requirement of those conditions, therefore, there is no scope for interference.

9) The writ petition is, however, disposed of with a direction to the Executive Officer, Municipal Board concerned to consider the objection submitted by the petitioner and pass appropriate order, as per law, within two weeks from the date of presentation of certified copy of this Order.

10) Pending application(s), if any, also stand disposed of.

MANOJ KUMAR TIWARI, A.C.J.

SUBHASH UPADHYAY, J.

Dt: 5TH NOVEMBER, 2026
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HIMANSHU NEGI

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