

(2019) 09 CAL CK 0261

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 18341, 18342 (W) Of 2019

Burnpur Labour Contract & Construction Co?Operative
Society Ltd And Others

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 20-09-2019

Acts Referred:

Citation : (2019) 09 CAL CK 0261

Hon'ble Judges : Debangsu Basak, J

Bench : Single Bench

Advocate : Soumya Majumdar, Amrita Mji, S. Maity, Anirban Chakraborty,
Amitesh Banerjee, Suddhadev Adak, Samrat Sen, Amitava Mitra, Saikat
Chatterjee

Final Decision : Disposed Of

Judgement

Debangsu Basak, J

The petitioner assails a tender dated September 6, 2019 on the ground that the terms and conditions of such tender process requires a tenderer to have registration under Contract Labour (Regulation and Abolition) Act, 1970 for employing 20 or more persons. The tender is for engagement of 14 and 19 persons respectively in two of the hospitals. Since the petitioner is participating in one of the hospitals, the threshold of 20 employees under the Act of 1970 is not reached for the petitioner to come within the ambit of the Act of 1970.

Consequently, the requirement of a registration under the Act of 1970 as mandated in Clauses 12.8 of the tender process is bad. It is contrary to statute. The petitioner, who is without a registration should be allowed to participate in the tender.

State is represented by the Assistant Additional Advocate General and the Senior Standing Counsel.

It is contended on behalf of the State that, the terms and conditions of the tender should be read and understood to mean that the employer is looking for a tenderer who has a valid licence under the Act of 1970 for employing 20 or more persons on any day during the preceding 12 months from the date of issue of the tender although the tender, requires engagement of 14 and 19 persons in respect of the two hospitals concerned, which are below the threshold of the numbers of persons specified under the Act of 1970 to obtain a licence thereunder. Nonetheless, the employer requires a participant in the tender process who have a licence.

In the facts of the present case, the Chief Medical Officer of Health, Purba Medinipur issued the tender notice dated September 6, 2019 for providing cleaning and house keeping service at Kalna Sub? Division Hospital and Katwa Sub?Division Hospital. The number of scavengers to be engaged are specified as 14 and 19 persons respectively. The tender notice specifies at Clause 12.8 as follows:?

"Registration under the Contract Labour (Regulation and Abolition) Act for contractors employing 20 or more persons on any day during preceding 12 months from date of issue of tender."

The word "Registration" in the clause 12.8 is to be read as "Licence". Licence under the Act of 1970 is required for a participant in the tender process. The employer construes Clause 12.8 along with the other Clauses of the tender process to mean that, a tenderer participating in the tender must have a past experience of engagement of 20 or more employees on any day during the preceding 12 months from the date of issue of the tender. The interpretation sought to be given by the employer is a plausible one and, therefore, an interference by the Writ Court is not called for.

In view of the observations made, W.P. 18341 (W) of 2019 and W.P. 18342 (W) of 2019 are disposed of without any order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.