
(2014) 09 JH CK 0006

In the Jharkhand High Court

Case No : Writ Petition (Civil) No. 2830 of 2014

Chandra Shekhar Prasad Singh

APPELLANT

Vs

Central Coalfields Ltd.

RESPONDENT

Date of Decision : 01-09-2014

Acts Referred:

Citation : (2014) 4 JLJR 253

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Sumeet Gadodia, Advocate for the Appellant; A.K. Das, Advocate for the Respondent

Judgement

S. Chandrashekhar, J.—Challenging issuance of letter dated 30.05.2014 whereby the earnest money deposited by the petitioner has been forfeited and M/s. Shiv Shakti Enterprises, a partnership firm has been black listed, the petitioner has approached this Court. The learned counsel appearing for the petitioner submitted that the eligibility criteria in NIT relating to work experience, only requires that a tenderer should have executed works of similar nature valuing 65% of the "Annualized Value" of the work or estimated value of work, whichever is less put to tender in any year during last 7 years. He further pointed out that the petitioner furnished the work order, the letter of intent and since at the relevant time the work experience certificate was not issued by the employer namely, Hindustan Steel Works Limited, "in the column of work experience, certificate number and date" on the advice of the technical provider-M/s. C1 India, of the respondent-CCL, the petitioner entered "Zero" in the relevant field and thus, it cannot be alleged that the petitioner furnished a false information. The order of forfeiture of earnest money and black listing the firm of the petitioner has been assailed by the counsel appearing for the petitioner submitting that though, the petitioner vide letter dated 30.04.2014 explained factual situation, the defence of the petitioner has not been considered before issuing the impugned order dated 30.05.2014. It is further submitted that the

impugned order has been passed in violation of the principles of natural justice.

2. The learned counsel appearing for the respondent-CCL submits that, the petitioner at the time of verification of the documents produced the work order and letter of intent only which would not conclusively establish that the firm of the petitioner has successfully completed the work allotted to him. The petitioner failed to produce "Satisfactory Work Execution Certificate" which is mandatory requirement under NIT and since he gave wrong information, the tender allotted to the petitioner was cancelled and consequently, the earnest money was forfeited and an order black listing the firm of the petitioner has also been passed.

3. I have carefully considered the submission of the learned counsel appearing for the parties and perused the documents on record.

4. It is an admitted fact that the tender, that is, the "e-tender" issued in the present case, is finalised through a Pre-programmed Computerization System. The eligibility of the tenderer has to be ascertain on the date on which the application is made. A perusal of the reply to show-cause notice dated 28.04.2014 of CCL would indicate that the petitioner has admitted that the employer of the firm of the petitioner did not issued experience certificate and therefore, he could not produce it for verification. It is thus, an admitted position that the date on which he participated in the tender process, he was not having requisite qualification. Clause 19 of the NIT specifically reads as under:

19. ".....

....."

5. I do not find any infirmity or illegality in cancelling the tender allotted to the petitioner and consequently, forfeiting the earnest money. A show-cause notice was issued to the petitioner and the impugned order dated 30.05.2014 has been passed considering the facts of the case. In so far as black listing vide order dated 30.05.2014 is concerned of M/s. Shiv Shakti Enterprises, I am not inclined to interfere with the order of black listing as sufficient material has not been produced on record by the petitioner in support of the plea raised by him however, a liberty is reserved with the petitioner to approach the respondent-CCL and produce relevant documents in support of his case and if the respondent-CCL is satisfied with the documents produced by the firm of the petitioner an appropriate order would be passed, in accordance with law. However, it is made clear that the liberty granted to the petitioner would not be construed as a direction of this Court. Interim order dated 04.08.2014 stands vacated. The writ petition is dismissed with the aforesaid liberty to the petitioner.