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**(2002) 11 AHC CK 0140**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 42515 of 2002**

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| Jamuna Marketing (P) Ltd.            | Vs | APPELLANT  |
| Bharat Sanchar Nigam Ltd. and Others |    | RESPONDENT |

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**Date of Decision :** 13-11-2002

**Acts Referred:**

**Citation :** (2002) 5 AWC 4379

**Hon'ble Judges :** Rakesh Tiwari, J;M. Katju, J

**Bench :** Division Bench

**Advocate :** Pradeep Kumar, for the Appellant; Manoj Kumar, B.N. Singh, Nitin Sharma, Public Prosecutor Srivastava and S.C., for the Respondent

**Final Decision :** Allowed

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## Judgement

M. Katju, J.—This writ petition has been filed for a writ of certiorari to quash the Cellular Service Dealership Agreement approved by Respondent No. 2 in favour of Respondent No. 4 on 24.8.2002.

2. Heard learned Counsel for the parties. We had passed an interim order in this case on 1.10.2002 directing Respondents not to finalise the dealership.

3. The facts of this case are that Bharat Sanchar Nigam Ltd. (hereinafter referred to as B.S.N.L.) the Respondent No. 1 is a Public Sector Undertaking incorporated under the Indian Companies Act and is engaged in providing telecommunication facilities all over the country. The Petitioner is a registered Private Limited Company with its office at 20, M. G. Marg, Civil Lines, Allahabad which is carrying on the distributorship of various products of M/s. Godrej Company for the last 12 years apart from other business.

4. The Respondent No. 1 decided to start Cellular Telephonic Service in U.P. (East) including district Allahabad, and for this purpose, B.S.N.L. decided to appoint dealers and distributors for different cities and areas including district Allahabad. The difference between a Dealer and a Distributor is that the Distributor sells pre-paid products and services, whereas the Dealer sells only

post-paid services.

5. For the purposes for appointment of Dealers/Distributors the Respondent No. 1 published an advertisement/notice on 11.7.2002 inviting tenders for different cities and areas including district Allahabad. True copy of the advertisement/notice has been annexed as Annexure-1 to the writ petition.

6. In pursuance of the aforesaid tender notice, the Petitioner applied for appointment of Dealership in district Allahabad. The Petitioner filled up the tender form and deposited the same in the office of Respondent No. 3 on 30.7.2002 within the time prescribed, and the Director of the Petitioner's firm personally attended the tender opening for Technical Bid on 30.7.2002 at the office of Respondent No. 3. It is alleged in paragraph 8 of the writ petition that 16 participants submitted their Technical Bids for the Allahabad Dealership including the Petitioner on 30.7.2002. The Petitioner deposited the required documents including Bank Guarantee of Rs. 2.00 lakh as per the demand mentioned in the tender/notice. True copies of the tender, Financial Bid as well as Technical Bid have been annexed as Annexures-2, 2A and 2B respectively to the writ petition.

7. It is also alleged in paragraph 9 of the writ petition that the tender was divided into two parts ; one called as Technical Bid and the other called as Financial Bid. The Technical Bid was to be submitted in separate envelopes under the terms mentioned in the tender notice (copy of which has been annexed as Annexure-1 to the petition). It is alleged that the Petitioner submitted both the two envelopes separately on 30.7.2002 before Respondent No. 3. The Financial Bid was to be opened only if the Technical Bid was accepted.

8. According to the terms and conditions of the tender, the Technical Bid was to be opened at the place of its submission, that is to say, in the office of Respondent No. 3 on 30.7.2002 in the presence of tenderers. The date and place of opening of Financial Bid were to be informed through press or otherwise to the participants later on. It is alleged in paragraph 11 of the writ petition that after opening the Technical Bid, in the office of Respondent No. 3 on 30.7.2002, the team under the Chairmanship of Respondent No. 3 visited the show-room of the Petitioner on 5th August 2002 and orally informed the Director of the Petitioner firm that its dealership proposal is under consideration. It is alleged in paragraph 12 of the writ petition that on 12.8.2002, the Respondent No. 2 issued a letter to the Petitioner company by which he informed that the Technical Bid has been opened and the Respondent is in the process of evaluation of the Technical Bid and he directed the Petitioner to submit three more documents duly certified and attested by the competent authority. The nature of these documents are mentioned in paragraph 12 of the writ petition and a true copy of the letter dated 12.8.2002 has been annexed as Annexure-3 to the writ petition.

9. In paragraph 13 of the writ petition, it is stated that the Petitioner sent all the three required papers in two sets separately to Respondent No. 2 by courier on

20.8.2002 and a true copy of the same has been annexed as Annexure-4 to the writ petition. Both the letters sent by the Petitioner were received on 21.8.2002 and a true copy of the receipt has been annexed as Annexure-5 to the writ petition. In paragraph 15 of the writ petition it is alleged that on 22.8.2002 the Respondent No. 2 informed the Director of the Petitioner company on telephone that its Technical Bid had been approved and its Financial Bid will be opened on 24.8.2002. It was further informed that if any participant was inclined to participate in the Financial Bid as per the terms of the tender notice, he may come on 24.8.2002, otherwise the Financial Bid as per the terms of the tender/notice will be considered and finalised accordingly on the basis of the selection criteria as offered by the participants. In paragraph 16 of the writ petition the selection criteria has been mentioned which is (i) Commission 75% weightage (ii) Experience-20% weightage and (iii) space (ground floor/commercial location)-05% weightage. In paragraph 17 of the petition it is alleged that on account of illness of the Director of the Petitioner company he could not appear on 24.8.2002 in the Financial Bid held in the office of Respondent No. 2 at Lucknow. The Petitioner came to know that only two participants were present in the Financial Bid for Allahabad Dealership and one of them was Respondent No. 4.

10. In paragraph 19 of the writ petition, it is alleged that the Petitioner offered 36% commission in the Financial Bid and he also fulfilled all other selection criteria. The shop of the Petitioner is situated just opposite to Palace Theatre in the heart of Civil Lines, Allahabad having huge open parking space in front of the shop. The Petitioner's Director has experience as per the terms mentioned for selection by the Respondent Nos. 1 to 3. The Petitioner claimed that he qualified in the Technical Bid as per the information given by the Respondent No. 2 to the Petitioner on 22.8.2002 by phone and in the Financial Bid which was opened on 24.8.2002, the lowest offer of 36% commission was made by the Petitioner in its Financial Bid, but the Respondents without considering the aforementioned offer of the Petitioner have illegally settled the dealership of B.S.N.L. Cellular Service in favour of Respondent No. 4, who had actually offered 43% commission in his Financial Bid. It has been alleged that the settlement in favour of Respondent No. 4 is totally arbitrary, illegal and liable to be quashed.

11. The Petitioner sent a letter to Respondent No. 2 on 2.9.2002 requesting him to give written information about the Financial Bid which was opened on 24.8.2002, but the Respondent No. 2 did not send any reply to the Petitioner's request. True copy of the letter dated 2.9.2002 has been annexed as Annexure-6 to the writ petition. It is stated that the shop of Respondent No. 4 is situated in Zero Road area as mentioned in his address given in its application, whereas the shop of Petitioner company is in a much better place as compared to Zero Road area. It is alleged that the Petitioner was more meritorious and suitable to be appointed as dealer in district Allahabad. It is alleged that the Respondent No. 2 has illegally ignored the lowest offer of the Petitioner i.e., 36% commission basis. Hence, it is alleged that Respondents have acted illegally and arbitrarily in settling the dealership with Respondent No. 4.

12. Two counter-affidavits have been filed in this case. The first counter-affidavit is on behalf of Respondent Nos. 1, 2 and 3. In paragraph 13 of the said counter-affidavit it is stated that the department had formed two committees for examining the tenders namely the "Tender Opening Committee" and the other "Tender Evaluation Committee". The Tender Opening Committee opens the tender packets of the tender and submits the papers along with its report to the Tender Evaluation Committee. The Tender Evaluation Committee then examines the tender forms strictly as per instructions issued on the subject and gives/ submits its report to the competent authority alongwith its recommendations if any. In the instant case the tender packet was opened by the Tender Opening Committee and after that the Technical Bid of all the persons mentioned in paragraph 13 of the counter-affidavit were thoroughly examined by the Tender Opening Committee alongwith others. The Tender Evaluation Committee has found certain defects in the tender of the Petitioner, which are mentioned in paragraph 13 of the counter-affidavit. It appears that Petitioner had not submitted the turnover certificate for the year 2001-02 and the Registration Certificate of the Firm and it had not given the confirm commitment about the date of start of operation. In paragraph 14 of the counter-affidavit it is stated that besides the Petitioner, the tender applications of about 250 other applicants were found defective for one or the other reason, on scrutiny of tender paper after the opening of Technical Bid and consequently such applicants were also not invited for opening the Financial Bid. It is alleged that the Petitioner is getting the same opportunity and treatment, which has been given to similarly situated applicants who gave defective tenders. Allowing the Petitioner to participate in the Financial Bid on the strength of defective/incomplete tender would amount to discrimination with similarly placed applicants of defective tenders.

13. In paragraph 19 of the same counter-affidavit it has been stated that the Petitioner has failed to comply with the instructions as contained in sub-para 1.1 (ii) and 2.1 of Tender Document. Since the Petitioner's Technical Bid was defective his Financial Bid was rightly not opened. In paragraph 21 of the same it is stated that the Tender Evaluation Committee found the Technical Bid of Respondent No. 4 M/s. Industrial Auto Mobile, Zero Road, Allahabad in order as the said firm has submitted the documents which were required by the Respondents through letter dated 12.8.2002.

14. A counter-affidavit has also been filed by the Respondent No. 4. In paragraphs 4 and 5 of the same, it is stated that the Respondent No. 4 has submitted his bid for the Dealership of B.S.N.L Cellular Services in Allahabad region in July 2002 in two separate parts, namely for the Technical and Financial Bid in two separate and sealed envelopes. Along with the bid certain documents were submitted by Respondent No. 4 which are referred to in paragraph 5 of the counter-affidavit. The Technical Bid took place on 30.7.2002 and the Respondent met all the basic conditions and qualifications for the bid. The Respondent No. 4 was asked to submit certain documents vide letter dated 12.8.2002, a true copy of which has been annexed as Annexure-C.A.-8 to the counter-affidavit.

Accordingly the Respondent No. 4 submitted these documents within time and he was informed that the Financial Bid would take place on 24.8.2002 at B.S.N.L. Office, Lucknow. In paragraph 9 of the counter-affidavit it is stated that as per the guidelines only those Financial Bids were to be opened which had successfully cleared the Technical Bid stage, in presence of only the successful bidders. The Petitioner's Technical Bid was rejected on the ground of non-furnishing of required documents within time and in the mode asked for. Only two bidders cleared the technical stage and as per the guidelines mentioned in letter dated 12.8.2002, only their Financial Bids were opened, in which Respondent No. 4 was selected. The said Respondent has received letter of intent on 9.9.2002 from the office of Respondent No. 2 vide Annexure-C.A.-9 to the counter-affidavit. By the aforesaid letter the Respondent No. 4 was asked to be present in Lucknow Office of B.S.N.L. on 13.9.2002 for a meeting of selected dealers. Accordingly the Respondent No. 4 was present on 13.9.2002 at the said office and the selected dealers were handed a copy of a Compact Disc (C.D.) explaining the design of the show-room, staff recruitment procedure and other guidelines for running the business. The Respondent No. 4 received a letter of intent dated 20.9.2002 asking it to submit its unconditional acceptance and sign the agreement by 30.9.2002. This letter shows the allotment of the Dealership of Allahabad Region to Respondent No. 4. True copy of the said letter is annexed as Annexure-C.A.-10 to the counter-affidavit.

15. The Respondent No. 4 surrendered the Essar Mobile dealership in Allahabad on 24.9.2002, which shows its willingness and sincerity to work with B.S.N.L. True copy of the withdrawal letter dated 24.9.2002 has been annexed as Annexure-C.A.-11 to the counter-affidavit. The B.S.N.L., Allahabad Office has accepted and approved the layout and location of the showroom of the Respondent No. 4 vide Annexure-C.A.-12 to the counter-affidavit. It is alleged that Respondent No. 4 has already invested a huge sum of money and proceeded with the construction and designing of the approved site, as per the guidelines given by the authorities. As per the letter of B.S.N.L. dated 20.9.2002, the Respondent No. 4 has submitted the Bank Guarantee worth Rs. 5 lakh in favour of B.S.N.L. True copy of the Bank Guarantee has been annexed as Annexure-C.A.-13 to the counter-affidavit. The B.S.N.L. Cellular Services are starting from 19th October 2002 from Lucknow and Respondent No. 4 has been selected by the B.S.N.L. It is alleged that there was no illegality committed by the Respondents. The Petitioner was not able to furnish the required documents within time and hence its Technical Bid was rightly rejected. In paragraph 44 of the counter-affidavit it is stated that the fact that the Petitioner did not send its representative to the Respondent No. 2 on 24.8.2002 shows that Petitioner was casual and not serious in the matter.

16. The Petitioner in reply to both the counter-affidavits has filed two rejoinder-affidavits.

17. In reply to the counter-affidavit of Respondent Nos. 1, 2 and 3, it is alleged

in paragraph 5 of the rejoinder-affidavit that the Petitioner company submitted the Technical and Financial Bid documents strictly in accordance with the instructions and guidelines. In paragraph 6 of the rejoinder-affidavit it is stated that the Petitioner has submitted its tender form along with self attested copy of the Turnover/Sale Proceeds Figures of the year 2001-2002, Photostat copy of the Sales Tax Deposit Receipts and layout of space with dimension and location were also filed. The certificate of incorporation was also submitted by the Petitioner company along with the Technical Bid and hence the demand of three papers mentioned by the Respondent corporation to the Petitioner vide letter dated 12.8.2002 is totally illegal. However, these papers were submitted by the Petitioner through courier service to the Respondent corporation on 20.8.2002 and the same were received by the Respondent corporation on 21.8.2002 before noon but without considering these facts, the Respondent corporation has settled the dealership in favour of Respondent No. 4. It is further stated that a committee under the Chairmanship of the D.G.M. (Admn.) of Allahabad Telephones B.S.N.L. accompanied with two officers of the corporation visited the Petitioner's showroom and informed at that time that the dealership of Petitioner of district Allahabad is under consideration. It is alleged that this itself shows that the layout of the space was not only submitted by the Petitioner but also verified by the team deputed by the corporation in the inspection on 5.8.2002. It is also stated that in the instructions/guidelines of tenderers, 1.0 (v) a self attested copy of the turnover for 2001-2002 was only demanded just to stop the Petitioner from participating in the tender. Hence, it is stated that this demand was totally illegal and the Petitioner has submitted all the documents well within time.

18. In paragraph 7 of the rejoinder-affidavit, it is stated that letter dated 12.8.2002 was illegally issued by the Respondent corporation to the Petitioner without perusing the documents filed by the Petitioner along with Technical Bid form. It is further stated that at the time of opening of the Technical Bid tender document on 30.7.2002 in the office of the A.G.M. (Planning) in the presence of the representatives of the tenderers, the entire documents were verified and a comparative chart was prepared in respect of the documents enclosed in the Technical Bid Form by all the tenderers including the Petitioner. In the said comparative chart the necessary facts in respect of non-submission of documents mentioned in Section II Instructions/ Guidelines to the tenderers were mentioned and verified by the A.G.M. (Planning). At that time neither the Petitioner's representative was informed nor any thing said about the non-filing of self attested copy of the turnover etc. Layout, space etc. and original power of attorney in the Technical Bid Tender Form were mentioned/informed. It is further stated that although the Petitioner has submitted all the documents as per guidelines/instructions on 30.7.2002 but he further submitted the three documents as per demand made by Respondent corporation dated 12.8.2002 before 12.00 hrs. on 21.8.2002. The demand to file the attested certified copy of the turnover by Sales Tax Officer/Income Tax Officer/Chartered Accountants was

raised for the first time on 12.8.2002. In paragraph 8 of the rejoinder-affidavit, it is stated that Petitioner has subsequently submitted the demanded papers as per letter dated 12.8.2002 to the Respondent much before the opening of the Financial Bid and the same were received as per admission of Respondent on 21.8.2002 in his office. Hence the Petitioner's Financial Bid should have been considered on 24.8.2002. In paragraph 9 of the rejoinder-affidavit it is stated that although Respondent No. 4 was also directed by letter dated 12.8.2002 to furnish the documents but no document was supplied by the Respondent No. 4 till 24.8.2002. Hence, the Respondent No. 4 is not entitled to get dealership of district Allahabad and the Respondent corporation illegally considered his Financial Bid. In paragraph 10 of the rejoinder-affidavit it is stated that Petitioner's tender was illegally disallowed by the Respondent corporation which did not consider his tender, whereas the Petitioner's company supplied all the necessary documents and had also offered 36% commission which is much less than that of the Respondent No. 4.

19. In the second rejoinder-affidavit, which is a reply to the counter-affidavit of Respondent No. 4, it is stated in paragraph 4 that Respondent No. 4 has not supplied the documents demanded on/or before 24.8.2002 and hence opening of its Financial Bid was illegal. In paragraph 5 of the same it is stated that Petitioner has submitted all the documents on 30.7.2002 and the Respondent corporation illegally issued the letter for submitting fresh documents ignoring the documents supplied by Petitioner on 30.7.2002. However, even thereafter, the Petitioner submitted the documents demanded through courier. In paragraph 6 of the same it is stated that the Respondent No. 4 has not deposited the required documents e.g. Sales Tax Deposit Receipts duly certified and even he did not fill up the Tender Form (Technical Bid) Annexures-I and J (page Nos. 3, 40 and 41) of the Tender Form) and hence its bid should have been rejected. In paragraph 10 of the rejoinder-affidavit it is stated that the letter of intent dated 9.9.2002 was issued to Respondent No. 4 collusively and arbitrarily in order to favour Respondent No. 4. In the Financial Bid, all other tenderers were not allowed and only one I.T.I. (Rae Bareilly) and Respondent No. 4 were allowed to participate and the remaining other tenderers were illegally not considered. The dealership approval was illegally given to Respondent No. 4 @ commission of 43% whereas the Petitioner offered a commission of 36%. It is reiterated that the showroom of the Petitioner is situated in a better place compared to Respondent No. 4 i.e., the central place of Civil Lines area in Allahabad City while the Respondent No. 4's showroom is situate in Zero Road area which is not suitable. In paragraphs 12 and 14 of the rejoinder-affidavit it is stated that Respondents have acted collusively ignoring the tenders of a large number of tenderers. In paragraph 20 of the rejoinder-affidavit it is stated that the three papers demanded by Respondent vide letter dated 12.8.2002 had already been enclosed with the Technical Bid on 30.7.2002 but yet the Petitioner's Financial Bid was not considered. The Petitioner again submitted the papers well within the time which were received on 21.8.2002 but they were not considered.

20. In our opinion, this writ petition deserves to be allowed.

21. The Petitioner had offered commission of 36% which was lower than that of Respondent No. 4 which was 43%. Hence, if the Petitioner's Technical Bid had not been rejected then he would have certainly been granted the contract in preference to Respondent No. 4. We have, therefore, to examine whether the Petitioner's Technical Bid was rightly rejected by the Respondents. The reasons for rejecting the Petitioner's Technical Bid were, in our opinion, flimsy and hyper-technical. The reasons for rejecting it is given in paragraphs 13 and 19 of the counter-affidavit of Respondent Nos. 1, 2 and 3. It is alleged that the Petitioner has not submitted three documents namely (1) the turnover certificate for the year 2001-2002 ; (2) the Registration Certificate of the Firm, and (3) had not given the confirm commitment about the start of operation.

22. Annexure-3 to the writ petition is the letter dated 12.8.2002 issued by the B.S.N.L. The said letter required the following documents duly certified and attested to be submitted by 12.00 hrs. on 21.8.2002 at the office of the A.G.M. (P.H.E.) Chamber C.G.M.T., U.P. (East) Telecom Circle, Hazratganj, Lucknow :

"(1) Turnover of the firm for the year 2001-02 duly verified by Sales Tax Officer/ Income Tax Office/Certified by Chartered Accountant with seal and registration number.

(2) Location of the proposed showroom with a definite layout plan.

(3) Certified copy of Partnership Deed and Power of Attorney".

In the above letter it was also stated that after receiving the above documents, the Technical Bid will be evaluated and if found it, Financial Bid will be opened at 1100 hrs. on 24.8.2002. If the documents were not submitted, the Financial Bid would not be considered.

23. In paragraph 13 of the petition, it is stated that in reply to said letter, the Petitioner sent all the three required papers in two sets to Respondent No. 2 by courier on 20.6.2002 vide Annexure-4 to the writ petition.

24. In paragraph 14 of the writ petition, it is stated that both these letters were received in the office of Respondent No. 2 on 21.8.2002 before 12 noon vide Annexure-5 to the writ petition.

25. The reply to paragraphs 13 and 14 of the writ petition has been given in paragraph 20 of the counter-affidavit of Sri R. S. Agarwal filed on behalf of Respondent Nos. 1, 2 and 3. In the said paragraph, there is no specific denial of the allegations contained in paragraphs 13 and 14 of the writ petition. Hence, the allegations in paragraphs 13 and 14 of the writ petition must deemed to be correct as they are unrebutted.

26. A perusal of Annexure-4 of the writ petition shows that it contains the turnover certificate for the year 2001-02 duly certified by the Sales Tax Officer. The Petitioner has also sent the Location and Layout of the showroom as also



copy of the resolution passed by the Board of Director of M/s. Jamuna Marketing Pvt. Ltd. held on 25.7.2002. These documents were delivered in the office of the Respondent No. 2 on 21.8.2002 as is evident from the receipt. Hence, it cannot be said that the documents were not before the said Respondents and they should have been taken into consideration.

27. The Petitioner's tender is Annexure-2 to the writ petition. A perusal of the same shows that Petitioner has given all the details, which were required to be given. It has mentioned its experience, the location of its showroom, the nature of business it has been doing, etc. The Petitioner also enclosed all the required documents copy of which has also been annexed as Annexure-2 to the writ petition. The tender has been submitted in the prescribed form and the Petitioner has filled up the said form annexing all the documents, which were required. The Technical Bid of the Petitioner is Annexure-2A to the writ petition. It encloses a certificate of the Sales Tax Officer, Allahabad dated 29.7.2002 for the year 1999-2000 and it mentions that the Petitioner is a registered firm. The Income Tax Clearance Certificate has also been annexed with the Technical Bid. The certificate of incorporation of the Petitioner with the Registrar of the Companies, Kanpur, U.P. is also enclosed with the Financial Bid along with the Memorandum and Articles of the Association. The Financial Bid is Annexure-2B to the writ petition showing that the Petitioner offered 36% commission which is much less than that offered by the Respondent No. 4. Thus, all the three documents which were required by the Respondent No. 2 by letter dated 12.8.2002 had been submitted by the Petitioner to the Respondent No. 2.

28. It appears that initially some of the documents demanded by letter dated 12.8.2002 had been demanded by Respondent No. 2 when the tenders were invited, and hence the Petitioner submitted the documents which are part of the Technical Bid copy of which is Annexure-2A. These included the Bank Guarantee, Certificate of the Sales Tax Officer showing Registration of the Firm and stating that assessment for 1999-2000 has been done and nothing was due against the Petitioner. It also includes the Income Tax clearance Certificate, and certificate of incorporation issued by the Registrar of Companies, Kanpur, U.P. Subsequently the letter dated 12.8.2002 was issued. It appears that Respondent No. 2 demanded some fresh documents which had not been demanded earlier from the tenderers. The Petitioner sent these documents by courier to Respondent No. 2. The certificate showing the turnover for the year 2001-02 issued by the Sales Tax Officer, Allahabad dated 19.8.2002 is part of Annexure-4 to the writ petition. The certificate of incorporation demanded by letter dated 12.8.2002 had already been submitted earlier alongwith the Technical Bid which is Annexure-2A to the petition. The Petitioner had also submitted the Location of Layout of showroom at Stretchy Road, Allahabad which indicates commitment of starting of operation. We are satisfied that those documents were delivered to Respondent No. 2 on 21.8.2002 as is evident from the receipted copies of the First Flight Courier which is annexed as Annexure-6 to the petition. Hence, in our opinion, the Petitioner submitted all the documents required by the Respondent No. 2 to it

well within time, and they were wrongly not taken into consideration.

29. In our opinion, the Respondents have given a lame excuse that the Petitioner's tender was defective. In our opinion, it was not defective and it should have been taken into consideration. It seems that the authorities were determined to give this contract to Respondent No. 4 and they have rejected the Technical Bids of 14 out of the 16 tenderers including the Petitioner on flimsy grounds. The action of the Respondents was, therefore, in our opinion, arbitrary and illegal.

30. In *M/s. Poddar Steel Corporation Vs. M/s. Ganesh Engineering Works and others*, , the Supreme Court held that technical irregularities in the tender can be waived, and literal compliance of all the tender terms is not necessary. The present case is on a stronger footing as here the Petitioner had complied with all the tender terms.

31. In *M/s. Monarch Infrastructure (P) Ltd. Vs. Commissioner, Ulhasnagar Municipal Corporation and Others*, , the Supreme Court held that alteration in the eligibility conditions after offers had been received is illegal. In the present case the letter dated 12.8.2002 has been issued by Respondent No. 2 after the offers had been received on 30.7.2002. The action of the Respondents is hence clearly illegal.

32. Consequently we quash the Cellular Service Dealership agreement in respect of district Allahabad granted to Respondent No. 4 and we direct that the authority concerned should proceed afresh after taking into consideration the Technical Bids of the Petitioner and others who are found to be qualified in the light of this judgment.

33. Petition is allowed. No order as to costs.