
(2005) 04 JH CK 0045
In the Jharkhand High Court
Case No : Writ Petition (C) No. 1547 of 2005

J.P. Steel Udyog

APPELLANT

Vs

Jharkhand State Electricity Board and Others

RESPONDENT

Date of Decision : 15-04-2005

Acts Referred:

Citation : (2005) 2 JCR 538

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : V.P. Singh, A.K. Sinha and Mukesh Kumar, for the Appellant; Delip Jerath, S.N. Prasad, K. Roy and Ashok Kumar, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard Mr. V.P. Singh, learned Sr. Counsel appearing for the petitioner and Mr. Delip Jerath, learned counsel appearing for the respondent-Board.

2. In this writ petition, petitioner seeks a direction upon the respondents not to negotiate or deal with any other person whose tender was not found valid on 10.12.2004 in relation to Tender Notice for sale of iron and steel scrap and further for a direction not to allot tender to any other person.

3. Petitioner's case, inter alia, is that respondents published Tender Notice inviting Tender for sale of different articles including iron and steel scrap. As against SI No. 1 of the Tender Notice relating to the sale of iron and steel scrap due date of submission and opening of Tender was 10.12.2004. Tender was required to be submitted in two parts i.e. technical and price bid separately. Petitioner and several persons submitted their Tender and the technical bid of all the tenders were opened by the respondents in presence of representatives of the petitioner. Technical bid of four persons including the petitioner was found valid and in order. These four persons including the petitioner were informed by the respondents by letter dated 24.2.2005 to be present on 26.2.2005 in the

Officer for opening of price bid for supply of 5000 M.T. of iron and steel scrap. It is contended by the petitioner that on 26.2.2005 price bid was opened and the price bid of the petitioner was found highest. In spite of opening of the price bid, respondents have not issued allotment letter in spite of several reminders given to the respondents. Surprisingly, petitioner learnt that respondents are negotiating the matter with some of the tenderers whose technical bid was not found in order on 10.12.2004. By filing amendment petition, petitioner brought some more facts on record. It is stated that after opening of the price bid on 26.2.2005, respondents acted arbitrarily by including the Tender of respondent No. 4 and issuing an allotment order.

4. Respondents filed a counter-affidavit stating, inter alia, that the petitioner including other tenderers did not fulfil all the criteria as mentioned in the Tender Notice. However, in the interest of the Board it was decided to give a chance to all the fourteen tenderers who fulfill all the criteria. On 26.2.2005 when the price bid of respondent No. 4 was not opened, he made an application to the chairman of the respondent- Board alleging that although he had produced all the papers and fulfilled all the criteria but his price bid was not opened. The Chairman made a note on the application, endorsed to the Member (Finance) stating that when respondent No. 4 was eligible and if his financial bid was found to be highest then his case should also be considered. It is further stated that two other representations submitted by respondent No. 4 in pursuance of which an inquiry was made and the Chairman directed that in the interest of Board it get the best and highest price for the scrap being sold by them.

5. It has not been disputed by the petitioner that pursuant to the Tender Notice, respondent No. 4 along with other tenderers submitted their Tender on the date fixed and since most of the tenderers did not fulfill the criteria, the Board gave opportunity to fulfil the conditions like submission of certificates etc. When the technical bid and price bid of respondent No. 4 were not opened he made representation before the Chairman and after holding inquiry directed the concerned authority to consider the price bid of respondent No. 4 also.

6. From perusal of Annexure-A to the counter affidavit, it appears that before price bid was opened the respondent-Board by letter dated 2.2.2005 directed respondent No. 4 to submit some documents otherwise his price bid will not be opened. Respondent No. 4 submitted all the papers on 8.2.2005 and in spite of that when his price bid was not opened on 26.2.2005, a complaint was made by respondent No. 4 to the Chairman and finding his claim genuine a direction was issued by the Chairman to open price bid of respondent No. 4 also. Prima facie, therefore, I do not find any arbitrariness in the action of the respondents in considering the Tender of respondent No. 4 also. Moreover, if the price bid of respondent No. 4 is on higher side then there is no reason why respondents will not negotiate with respondent No. 4 also before issuing the sale letter to the appropriate purchaser.

7. Taking into consideration the entire facts of the case, I do not find any reason

to interfere with the decision making process followed by the respondents for the purpose of taking a final decision for the sale of Iron & Steel scrap to the highest bidder.

8. For the aforesaid reason, I do not find any merit in this writ petition which is accordingly dismissed.