
(2011) 04 GUJ CK 0050
In the Gujarat High Court

Case No : Special Civil Application No. 4545 of 2011

Linaben Satishkumar Thakkar - Prop of Jay Enterprise	APPELLANT
Vs	
Gujarat State Civil Supply Corporation Ltd. and Others	RESPONDENT

Date of Decision : 19-04-2011

Acts Referred:

Citation : (2011) 04 GUJ CK 0050

Hon'ble Judges : K.A. Puj, J;D.H. Waghela, J

Bench : Division Bench

Advocate : Asim Pandya and V.M. Pancholi, for the Appellant; K.M. Patel and Varun K. Patel, for R1 and Paresh Upadhyay, for R3, for the Respondent

Judgement

D.H. Waghela, J.—Rule. Learned Counsel appearing for the Respondents waived service.

2. The Petitioner is aggrieved by rejection of her technical bid which was submitted pursuant to the tenders floated by Respondent No. 1 vide its Tender Notice No. NAPUNI/LTC/ANAJ/PARIVAHAN IJARO/2011-12 dated 07.03.2011.

3. It is the case of the Petitioner that the technical bid was submitted by the Petitioner as per the relevant tender clauses and within the time limit prescribed in the tender documents. Condition No. 2.6 contained in the Instructions and Guidelines dated 07.03.2011, related to the tender in question, stipulated that the tender documents must be received at the Gandhinagar Head Post Office, Sector 11 in Post Box No. 17 through the postal delivery only and any documents received otherwise than in the Post Box or after the prescribed time limit shall not be considered. In a bid to comply with that condition, the Petitioner submitted all the required documents of the technical bid on 26.03.2011 at Gandhinagar Head Post Office, Sector 11 in Post Box No. 17 and receipt in that regard was issued by the postal department to the Petitioner. However upon inquiry, it was found by the Petitioner that because of negligence on the part of employee of the postal department, the tender documents submitted by the

Petitioner were not received by the office of Respondent No. 1 within the prescribed time limit and hence, she made a representation about dispatching the tender documents in the prescribed manner on 26.03.2011 at 10.50 hours to Post Box No. 17. However, she was replied that her technical bid was received by the office of Respondent No. 2 after 12.00 noon on 28.03.2011 and hence, it was not accepted. It is alleged by the Petitioner that even though Respondent No. 3 had not submitted all the required documents strictly in terms of the tender conditions, their technical bid is accepted and even they were permitted to supply missing documents afterwards.

4. As against the above case of the Petitioner, it was submitted on behalf of Respondent Nos. 1 & 2 by learned Senior Counsel Mr. K. M. Patel that the Respondents have acted strictly in accordance with the stipulations contained in the Instructions and since the technical bid of the Petitioner was received by the Respondent No. 1 after 12.00 noon on 28.03.2011, it had to be rejected along with all such other bids received after the prescribed time limit or by any means other than through the Post Box. Learned Counsel produced before the Court the original sealed packet sent by post by the Petitioner to submit that the address on that packet unnecessarily mentioned name of the Respondent No. 1 Corporation above the Post Box number and the packet was unnecessarily sent by Regd. Post due to which it could have been delivered late by 2 hours 40 minutes. He further submitted that the time limit of 12.00 noon was not arbitrarily fixed but it was fixed for the reason that the technical bids were to be opened at 12.30 p.m. on the same day. He, however, fairly conceded that although Respondent No. 3 was the only party remaining in the fray for the tender in question, none of the price bids were as yet opened.

5. It was submitted on behalf of Respondent No. 3 by learned Senior Counsel Mr. Paresh Upadhyay that many other tender documents and technical bids were rejected and discarded on the same or similar grounds and only 56 sets of documents were found to be acceptable and rojakam in that regard was recorded on the same day, of which a copy is placed on record. He denied the allegations of the Petitioner about any special concession having been accorded to Respondent No. 3 by Respondent Nos. 1 & 2.

6. In view of the short controversy arising out of the situation wherein the Petitioner has dispatched and submitted the tender documents in time, but they have reached the Respondent No. 1 late by few hours only on account of the delivery being in the hands of the postal department and in view of the overall facts and circumstances of the case, including the fact of price bids having as yet not been opened, it clearly appears to be in the interest of justice, public interest and in the interest of Respondent Nos. 1 & 2 that the technical bid of the Petitioner is accepted for examination and further consideration.

7. Learned Counsel Mr. Asim Pandya appearing for the Petitioner fairly conceded that the intention and purpose of the Petitioner was only to see that her bid was duly considered and the allegations or the prayer against Respondent No. 3 is not

pressed at this stage.

8. Therefore, in the peculiar facts and circumstances of the case, the petition is partly allowed and the Respondent Nos. 1 & 2 are directed to accept, open and consider on merits the technical bid submitted by the Petitioner pursuant to the tender notice mentioned herein above.

9. It would be open for Respondent Nos. 1 & 2 to open and consider the other technical bids in respect of the same tender notice if they are rejected on the same grounds as was available in the case of the Petitioner.

10. Rule is made absolute accordingly, with no order as to costs.