
(1995) 09 DEL CK 0030
In the Delhi High Court
Case No : CWP No. 1502 of 1995

M/s. Balaji Traders

APPELLANT

Vs

D.E.S.U. and others

RESPONDENT

Date of Decision : 08-09-1995

Acts Referred:

Citation : (1995) 09 DEL CK 0030

Hon'ble Judges : Dr. M.K. Sharma, J; D.P. Wadhwa, J

Bench : Division Bench

Advocate : Mr. S.P. Pandey, for the Appellant; Mr. Jayant Nath, Mr. R.M. Sinhae and Mr. B.C. Pandey, for the Respondent

Judgement

Dr. M.K. Sharma, J.—This writ petition has been preferred by the petitioner seeking for a direction for cancellation of tender issued by the respondents on 14.2.1995 and also for setting aside the decision of the respondents in finalising the same in favor of respondent No. 4. The respondents No. 1 and 2 floated a tender for regular maintaining of cleanliness at Coal Handling Plant at Rajghat Power House of Delhi Electric Supply Undertaking for a period of one year in pursuance of tender notice issued on 10.2.1995. The tender notice stipulated that the tenderers should quote lumpsum rate on per day basis and that the contractor should depute atleast fifty unskilled persons and 3 Supervisor per day round the clock. The further condition that was laid down in the said tender conditions was that the minimum daily wages to the labour should be as per prevailing rates approved by Delhi Administration, as applicable from time to time with other statutory benefits as per different Acts.

2. In pursuance of the said advertisement inviting tenders for the aforesaid work the petitioner submitted his tender quoting rate Rs. 3,270.17 per day whereas the respondent No. 4 submitted his tender quoting the price of Rs. 2,893.80 per day. In all 5 tenders were received including that of the petitioner and respondent No. 4.

3. From the averments made in the counter affidavit filed on behalf of the respondents, it is revealed that Along with his tender the petitioner did not submit his income tax clearance certificate. Incidentally the respondent No. 4, who quoted at Rs. 2,893.80 per day for 5 unskilled labourers and 3 numbers of Safety Supervisors was the lowest rate and his tender appears to be complete in all respects. In view of the aforesaid factual position the Works Committee after considering the tenders decided that the contract should be awarded in favor of respondent No. 4 and recommended accordingly. The said recommendation of the Works Committee was approved by the Special Officer exercising the powers of Delhi Electricity Supply Committee and consequently the contract for the aforesaid work was awarded in favor of respondent No. 4.

4. Mr. Pandey, learned counsel appearing for the petitioner submitted before us that the quotation and the rates offered by the petitioner was in accordance with the terms and conditions of the notice inviting tender and was based on the rates prescribed by the Government of National Capital Territory of Delhi and also in accordance with the provisions of different Labour Acts whereas the rate offered by respondent No. 4 was much less than the prescribed minimum wages notified by the Government of National Capital Territory of Delhi and Therefore the action of respondents No. 1 and 2 in finalising the tender in favor of respondent No. 4 and in rejecting the offer of the petitioner is arbitrary and unreasonable and Therefore, the said action is liable to be set aside and quashed.

5. We have also heard the learned counsel appearing for the respondents who have taken us through the averments made in the counter affidavit filed on behalf of the respondents. The counsel appearing for the respondents submitted before us that the grounds for challenging the finalisation of the tender dated 14.2.1995 are misconceived and without any merit.

6. We have given our anxious consideration to the rival submissions of the learned counsel appearing for the parties and on scrutiny thereof we find ourselves unable to be persuaded by the submissions of the learned counsel for the petitioner. Records placed before us clearly reveal that the tender was opened on 14.2.1995 whereas the rates of minimum wages for skilled, unskilled and semiskilled labourers were revised by the Government of National Capital Territory of Delhi on 15.2.1995.

7. In view of the aforesaid factual position the modified rates fixed by the Government of National Capital Territory of Delhi as minimum wages and 15.2.1995 shall not be applicable to the facts and circumstances of the present case in as much as the invitation to tender was issued on 10.2.1995 and the tender was opened on 14.2.1995, a day prior to the revision of the rates of minimum wages. The rate offered by respondent No. 4 is the lowest amongst all the tenderers and we do not find any illegality and/or arbitrariness in accepting the said offer of respondent No. 4. Accordingly, there is no merit in this petition and the same is rejected but without any costs.