

(2014) 03 KAR CK 0198
In the Karnataka High Court
Case No : W.P. No. 57017/2013 (GM-KEB)

M/s. N.C. Das (Electrical) and Co.

APPELLANT

Vs

Bangalore Electricity Supply Company Limited

RESPONDENT

Date of Decision : 17-03-2014

Acts Referred:

Citation : (2014) 03 KAR CK 0198

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : K. Diwakara, Advocate for Sri Diwakara and Assts, Advocate for the Appellant; B. Rudragowda, Advocate for the Respondent

Final Decision : Allowed

Judgement

B.S. Patil, J.—In this writ petition, petitioner is calling in question the order dated 03.12.2013 passed by the respondent - Bangalore Electricity Supply Company Limited (for short, "B.E.S.C.O.M.") vide Annexure-M thereby, short closing the purchase order placed with the petitioner for supply of certain quantities of G.I. Grounding Pipes.

2. Tenders were called for by the respondent for supply of G.I. Grounding Pipes. Petitioner emerged as a successful bidder. A Rate Contract was entered into. Purchase Order dated 06.06.2013 was issued to the petitioner vide Annexure-E containing different delivery schedule of materials totally numbering 50270 G.I. Grounding Pipes. Petitioner has supplied 12000 G.I. Grounding Pipes. Out of them, 4364 were rejected as they were not conforming to the required specification. After exchange of correspondence, petitioner - firm accepted the rejected materials assuring that they will supply fresh lot.

3. Respondent - B.E.S.C.O.M. carried out inspection on 27.08.2013 of another lot of 12000 G.I. Grounding Pipes. Delivery instructions was issued on 12.09.2013 for the second lot of 12000 G.I. Grounding Pipes. The Executive Engineer of Yelahanka and Kolar Divisions urged to the B.E.S.C.O.M. that materials supplied

did not conform to the required specification. They also informed that there was no need for second inspection. Accordingly, the General Manager Electricity, Procurement, B.E.S.C.O.M., issued notice to the petitioner - firm on 23.11.2013 informing that purchase order will be short-closed. A reply was given by the petitioner on 29.11.2013 explaining and asserting that there were no defects in the materials. Thereafter, impugned order is passed. Impugned order reads as under:

The Purchase order No. 1484 dtd. 29.04.2013 placed on M/s. N.C. Das Electrical & Co., 12/5 Musalman Para Lane, Howrah, is hereby short closed for supply of 42634 Nos. of G.I. Grounding Pipes with immediate effect.

4. A perusal of this order makes it apparent that there is non-application of mind to the reply submitted by the petitioner. There is nothing stated in the order as to the nature of defect noticed in the material. Nothing is discernable as to whether an opportunity is given to the petitioner to have its say in the matter. When a notice is given informing the petitioner that purchase order will be short closed because of certain defects in the materials offered for supply pursuant whereof reply is submitted denying the allegations made in the notice, it becomes necessary for the authority dealing with the matter to apply its mind to the reply submitted and pass a speaking order. Such an effort is not made in the instant case. The impugned order, therefore, suffers from non-application of mind to the relevant materials. It is not a speaking order and therefore, it cannot stand the test of judicial scrutiny.

5. Hence, without expressing any opinion on the merits of the case, this writ petition is allowed. Impugned order is set aside. The General Manager Electricity, Procurement, B.E.S.C.O.M., is directed to reconsider the matter and pass a speaking order by taking into consideration all the relevant facts within one month from the date of receipt of a copy of this order.