
(2023) 08 UK CK 0014

In the Uttarakhand High Court

Case No : Writ Petition (M/B) No. 193 Of 2023

Nandan Singh Chauhan

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 02-08-2023

Acts Referred:

Citation : (2023) 08 UK CK 0014

Hon'ble Judges : Vipin Sanghi, CJ;Rakesh Thapliyal, J

Bench : Division Bench

Advocate : Lalit Samant, Pradeep Joshi

Final Decision : Disposed Of

Judgement

Vipin Sanghi, CJ

- 1) Issue notice.
- 2) Learned counsel appears and accepts notice on behalf of the respondents.
- 3) The petitioner has preferred the present writ petition to seek a direction to respondent No. 5, i.e., the Tender Evaluation Committee, through its Chairman, Additional District Magistrate, Bageshwar, to include the petitioner in the financial bid opening process, and to treat his e-challan fee, as submitted within the stipulated time.
- 4) The respondents invited tender vide tender notice dated 10.07.2023, for lifting of food-grains, sugar etc. from rail head Haldwani Godown / Base Godown, Khatyari, Almora to the 7th inner godowns of District Bageshwar of Food and Civil Department of the State. The last date for submission of the e-tender was 17.07.2023, till 05:00 P.M. The bidders were required to submit e-treasury challan of Rs. 600/- plus 18% GST, under the departmental head "4408", within the said period.
- 5) The case of the petitioner is that the petitioner could not deposit the said

amount through e-treasury challan, since the portal of the respondents was under maintenance, and non-functional from 15.07.2023, 05:00 P.M. till 18.07.2023, 10:00 A.M. The petitioner also raised his grievance in this regard before the respondents on 17.07.2023 itself.

6) On 18.07.2023, the petitioner presented himself with the e-challan, after the portal became functional on 18.07.2023 itself. However, the respondents did not accept the e-challan, and did not consider the petitioner to be technically qualified. Consequently, the petitioner's financial bid was not opened. In the aforesaid background, the present petition has been preferred.

7) Learned counsel for the respondents, who appears on advance notice, submits on instructions, that the financial bids of other bidders, who were technically qualified, were opened and the contract already stands awarded by the respondents. It is further stated that the contractor has already started performing the work under the contract.

8) We find the action of the respondents to be most unreasonable and unfair since, admittedly, their portal was not working from 15.07.2023 onwards and till 18.07.2023. It would have been only fair for the respondents to extend the time for submitting the e-tenders with the e-challans till after the portal became operational. A bidder like the petitioner, who attempted to deposit the money through the e-challan, but could not do so on account of the portal not working, could not be put to disadvantage, particularly when the petitioner had made his representation on 17.07.2023 itself. Clearly, the petitioner has been wronged in the matter. However, considering the fact that the contract already stands awarded, and the contractor is performing the contract, at this stage, we are not inclined to interfere with the award of the contract. We leave it open to the petitioner to pursue his remedies to claim damages from the respondents. If any such claim is raised, the same should be adjudicated by the competent court, on its own merits.

9) The petition stands disposed of in the aforesaid terms.

10) Interim Relief Application (IA No. 01 of 2023) also stands disposed of.