

(2024) 01 UK CK 0120

In the Uttarakhand High Court

Case No : Writ Petition (M/B) No. 358 Of 2023

Pradip Kumar Sethi

APPELLANT

Vs

Director Of Geology And Mining

RESPONDENT

Date of Decision : 22-01-2024

Acts Referred:

Citation : (2024) 01 UK CK 0120

Hon'ble Judges : Vivek Bharti Sharma, J

Bench : Single Bench

Advocate : Aditya Singh, S.N. Babulkar, C.S. Rawat, P.C. Bisht

Final Decision : Dismissed

Judgement

Vivek Bharti Sharma, J

1. By means of this writ petition, petitioner seeks the following reliefs:-

(i) Issue a writ, order or direction in the nature of certiorari quashing the corrigendum dated 30.11.2023 issued by the respondent, limited to the extent of Clarification to Sl.No.1 (contained as Annexure No.3 to the writ petition).

(ii) Issue a writ, order or direction in the nature of mandamus commanding the respondent to allow the petitioner to participate in the tendering process in pursuance to the tender notice dated 22.11.2023.

(iii) Issue a writ, order or direction in the nature of certiorari quashing the order dated 13.12.2023 no.4812 उ.ख./भू. खनि. नि/ई-निविदातकनी.परि./2023-24 vide which the technical bid of the petitioner submitted in consortium with and in the name of M/s Narmada Sugar (P) Ltd. has been rejected (contained as Annexure No.7 to the writ petition).

2. Learned counsel for the petitioner would submit that pursuant to the tender inviting notice issued on 22.11.2023 for collection of royalty for mining RBM, the petitioner had submitted his tender on 12.12.2023, however, his technical bid was rejected on 13.12.2023. He would further submit that as per Clause 5(a)(x)

of the tender inviting notice the petitioner had to show that in either of last 03 financial years he had the experience of mining 10% or above of the total quantity of R.B.M. to be mined. He would further submit that as per his experience certificate (Annexure-1 to the writ petition), in the financial year 2022-23 the petitioner had picked up 100682.73 metric ton of RBM and in the current financial year 2023-24 the petitioner had picked up 4363753.94 metric ton of RBM from 01.04.2023 to 23.11.2023. He would submit that experience of the petitioner of mining in current financial year till 23.11.2023 itself is more than 10% of the mining quantity, thus, if the same is taken into consideration, the petitioner would meet the technical criteria as mentioned in the Tender Notice.

3. Per contra, learned State Counsel would submit that the criteria mentioned in the Tender Notice is that the prospective bidder should have equivalent to 10% experience of total quantity of R.B.M to be mined in any one of the last 03 financial years and there is no mention with regard to current financial year, thus, even if the petitioner has achieved more than 10% of the mining quantity in the current financial year, it does not make the petitioner eligible to participate in the tender process as he does not fulfil the technical criteria as mentioned in the Tender Notice.

4. Having heard rival submissions of learned counsel for the petitioner and the State Counsel, in the opinion of the Court, the criteria prescribed by the respondent in Clause 5(a)(x) of the Tender Notice, seems to be essential looking to the nature of work. Certain preconditions or qualification for tenders have to be laid down to ensure that the contractor has the capacity to successfully execute the work and it is for the tender inviting authority to set such terms and conditions of the tender as per law and not the petitioner.

5. That apart, if at all the petitioner was aggrieved by such condition of the Tender Notice, he should have approached this Court before the last date of submission of his technical bid. However, in the case at hand, as is evident from record, the writ petition was filed on 12.12.2023 i.e. on the last date of submission of technical bid.

6. In view of the foregoing discussion, there is no merit in the writ petition. Same is hereby dismissed. No order as to costs.