
(2014) 11 OHC CK 0096
In the Orissa High Court
Case No : WP(C) No. 21603 of 2014

Prakash Kumar Mohanty

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 28-11-2014

Acts Referred:

Citation : (2014) 11 OHC CK 0096

Hon'ble Judges : Amitava Roy, C.J;Dr. Akshaya Kumar Rath, J

Bench : Division Bench

Judgement

Dr. Akshaya Kumar Rath, J.—Assailing the decision of the opposite parties in rejecting the technical bid of the petitioner, vide Annexure-5, he has filed this writ petition.

2. The case of the petitioner is that he is an "A" Class Contractor. Pursuant to e-procurement tender call notice issued by the Superintending Engineer, Balangir (R&B) Circle, Balangir for the work "Improvement to Purunapada Road (SH-44 to NH-26) from 0/00 KM to 01/150 KM under State Plan for the Year 2014-15", he submitted the bid on 7.9.2014. His technical bid was opened along with others, but the same was rejected untenable and unsuccessful grounds for non-compliance of clause Nos. 18 and 124(e) of the DTCN.

3. Heard Mr. J.K. Mohapatra, learned counsel for the petitioner and Mr. J. Pattnaik, learned Addl. Government Advocate.

4. Mr. Mohapatra, learned counsel for the petitioner, submits that clause-18 of the DTCN provides the deadline for submission of the bids. The bids submitted after the cut off date cannot be accepted by the authority. The petitioner submitted his bid on 7.9.2014, i.e. within the stipulated period. Relying on Clause 124(e) of the DTCN, he submits that the applicant shall furnish the details of experience in similar nature of work in Road work executed in last 3 years which must not be less than 30% of amount put to tender in a single work and details of works in progress, contractually committed with certificate from the

concerned officer of the rank of Executive Engineer or equivalent (strictly as per Schedule D1 & D2), otherwise bid will be treated to be non responsive. (Emphasis is ours). Though the petitioner has executed more than 30% of similar nature of work and complied all the requirements, opposite parties have committed manifest illegality and impropriety in rejecting his technical bid.

5. Mr. Pattnaik, learned Addl. Government Advocate, on instruction, submits that the work certificate submitted by the petitioner was in a totally different format and not in conformity with clause 124(e) of the DTCN. Thus the technical evaluation committee did not consider his bid to be responsive.

6. Clause 124(e) of the DTCN provides that the applicant shall have experience in similar nature of work in road work executed in last three years and the same must not be less than 30% of the amount put to tender in a single work and must furnish the details of work in progress with certificate from the concerned officer of the rank of Executive Engineer or equivalent strictly as per Schedule D1 & D2, otherwise bid will be treated to be non responsive. Schedule D1 is a format of working experience which consists of 8 columns, but the petitioner furnished the format, vide Annexure-4, which consists of 12 columns. The clauses in the DTCN are strictly to be adhered to. Any deviation therefrom will entail rejection of the bid of the applicant. The applicant cannot in his own wisdom devise the method and submit the format.

7. In view of the same, the opposite parties, in our considered opinion, are perfectly justified in rejecting the technical bid of the petitioner which is totally different from Schedule D1 of the DTCN.

Accordingly, the writ petition is dismissed.

Amitava Roy, C.J.

I agree.