

(2025) 04 OHC CK 1385
In the Orissa High Court
Case No : Writ Petition (C) No.2833 Of 2025

Raghunath Nayak

APPELLANT

Vs

State Of Odisha And Others Vs

RESPONDENT

Date of Decision : 15-04-2025

Acts Referred:

Citation : (2025) 04 OHC CK 1385

Hon'ble Judges : Harish Tandon, CJ;K.R.Mohapatra, J

Bench : Division Bench

Advocate : Anjan Kumar Biswal, Saswat Das

Final Decision : Disposed Of

Judgement

Harish Tandon, CJ.

1. A tender was floated for appointment of a transporting agent under P.M. Poshan Mid-day Meal (MDM) Programme for Nayagarh District for the period from 01.10.2024 to 30.09.2025. The tender was to be submitted in two parts. Firstly, technical bid and secondly, financial bid. The petitioner participated in the said tender offering the price and also submitted all the requisite documents in order to satisfy the concerns of the tendering committee that he has expertise in transporting the goods. Before the technical bid could be opened, an objection was raised by one of the bidders that the petitioner has been transporting PDS & MDM rice for last 15 years and also working as a President of ATMA Committee of Agriculture Department. It was further alleged that the petitioner had been transporting MDM rice without any tender by the DEO, Nayagarh and has also submitted the experience certificate obtained by manipulation for participating in the tender. The District Tender Committee meeting was held on 29.10.2024 at 3.30 PM to open the technical bid and a decision was taken to cancel the technical bid submitted by the petitioner as the explanation furnished by the petitioner is ambiguous.

2. At the time of moving the writ petition, the opposite parties authorities were

restrained from floating any fresh tender for the same work, which is still operative. In course of hearing, we are informed that the tender process initiated earlier in which the petitioner offered his price, was cancelled by the District Tender Committee in a meeting held on 29.10.2024 as there was only one successful bidder. Though the order of injunction was passed by this Court not to publish a fresh tender but it is informed to us that in the interregnum a fresh tender was invited, which was subsequently cancelled.

3. Be that as it may, the only point involved in the instant writ petition is whether the District Tender Committee have rightly rejected the technical bid of the petitioner and the ground assigned thereto can withstand on the test of reasonability. We are conscious of the proposition of law that the writ court should be slow to interfere with the decision of the authority whether to continue with the tender or to cancel it, but equally, if the cancellation is preceded by any decision creating an impunity, such decision must appear to be reasonable and there is no fetter on the Court to interfere in such aspect.

4. The present case is a classic example of the second situation where the District Tender Committee upon analyzing the objections raised against the petitioner, rejected the technical bid solely on the ground of ambiguity in offering the explanation.

5. Interestingly, the objector who made a bald allegation was invited to produce the cogent evidence in support thereof by the said committee but instead of producing any document, he sought for accommodation yet the committee proceeded to reject the technical bid on the ground of ambiguity in the statement of the petitioner. It was a specific stand of the petitioner that he was not working as a President of the ATMA Committee Agricultural Department nor transported PDS rice in the previous year. He categorically admits that he had been transporting MDM rice as per the order of the Collector, Nayagarh and DEO, Nayagarh. According to the petitioner, the same cannot disentitle him to participate in the tender nor the conditions of the tender creates any brindle in this regard, more particularly, to a transporter who has been transporting MDM rice as per the order of the Collector, Nayagarh and DEO, Nayagarh. Even an administrative authority cannot shriek its responsibility in providing plausible reasons in taking a decision on rejection of the technical bid in a tender process. Right to participate in tender is a valuable right, which cannot be curbed taking a circuitous route not permitted in an administrative field. The moment serious allegation is made against the petitioner that he was a working President of ATMA Committee and transporting PDS and MDM rice since last 15 years, such allegation is to be substantiated by cogent evidence and the committee should not have proceeded to reject the bid on the ipse dixit of such allegation.

6. Ironically, the Committee proceeded despite the objector having sought time to produce evidence in support of such allegation, which does not appear to us can withstand on the reasonability test. The decision should be reasonable and rational and should not percolate the sense of any bias or malice. Since no fresh

tender has been floated as of now nor any transporter has been selected/ appointed, we therefore, find that the decision taken by the Committee warrants interference as it would not cause any prejudice to any person having accrued rights subsequently. The decision of the tender committee in rejecting the technical bid of the petitioner is hereby quashed and set aside. Since the entire tender process was cancelled solely on the ground of a sole bidder and in the event the petitioner is found suitable in absence of any evidence to be produced by the bidder, there is no fetter on the part of the authority to proceed with said tender and, therefore, the ultimate decision of cancellation of the tender process is also quashed and set aside.

7. The District Tender Committee is directed to take a decision on the technical bid submitted by the petitioner afresh after giving an opportunity of hearing both to the petitioner as well as the objector and take an informed decision on the basis of the evidence so produced. The decision shall be communicated to the petitioner. Since other bidders whose technical bids were rejected and did not approach the Court, this judgment would be restricted to the petitioner and shall not be treated as a precedent.

8. The writ petition stands disposed of accordingly.

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