
(2009) 05 AHC CK 0380
In the Allahabad High Court

Santosh Kumar Mishra

APPELLANT

Vs

State of UP and others

RESPONDENT

Date of Decision : 12-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0380

Hon'ble Judges : Yatindra Singh, J and Anil Kumar, J

Final Decision : Disposed Of

Judgement

Anil Kumar, J.—The Zila Panchayat Allahabad (the Zila Panchayat) issued a notification for holding auction of Tehbazari, vehicle stand, sand etc. by notification dated 13.1.2009. Different auctions were to take place on 3.2.2009. Apart from other, auction of Tehbazari/vehicle stand for Nawabganj market (the Nawabganj Auction) was also to be held on that day.

2. The petitioner sent his offer of Rs.2,40,000.00 on 2.2.2009 by registered post to the Zila Panchayat as well as to the Commissioner alongwith letter that he wants to appear in the auction on 3.3.2009 but due to terror he will not be able to appear in the same. This letter was received by the Zila Panchayat on 4.2.2009.

3. In the auction on 3.2.2009, the highest offer was of Respondent no.8 for Rs.1,80,000.00. It is relevant to point out that in the last year, the Nawabganj Auction was for a sum of Rs.1,95,000.00. However, the offer of Respondent 8 of Rs.1,80,000.00 was accepted by the Zila Panchayat. The petitioner filed the present writ petition against the same.

4. In this writ petition, the court passed detailed order on 27.4.2009. By this order, it was directed that in case the petitioner deposits solvency certificate, character certificate, and a draft of Rs.2,40,000.00 by 30.4.2009 then the Zila Panchayat will consider calling the petitioner as well as respondent no.8 for fresh auction in which the minimum bid will be of Rs.2,40,000.00. The petitioner submitted character certificate and solvency certificate alongwith draft of Bank of

Baroda dated 29.4.2009 for Rs.2,440,000.00.

5. The Zila Panchayat rejected the character certificate of the petitioner on the ground that it is not signed by the District Magistrate and returned the draft on 2.5.2009. As the money was returned no fresh auction was held by the Zila Panchyat.

6. We have heard Sri VC Misra and Sri Rajesh Singh, counsel for the petitioner, the Standing Counsel for respondents 1 to 3 and 6 and 7, Sri Suresh Chand Tiwari, counsel for respondents 4 and 5 and Sri Vimal Chandra Misra for respondent no.8. With the consent of the parties, the writ petition is being finally decided at this stage.

7. The character certificate of the petitioner was rejected on the ground that it has not been signed by the District Magistrate. The petitioner has annexed the photostat copy of the character certificate. This character certificate is signed by Tahsildar but it is also counter signed on behalf of the District Magistrate. This is sufficient compliance of the GO dated 10.4.2007. In view of the same, the order dated 2.5.2009 is illegal and is quashed.

8. The auction money for the last year was Rs.1,95,000.00. The petitioner had given his bid for Rs.2,40,000.00 before the auction. He had also deposited the bank draft of this amount before the Zila Panchyat. It is much higher than that of Respondent no.8. In view of the same, auction for Tehbazari and vehicle stand for Nawabganj should be held again.

9. It is not disputed that the Commissioner is the prescribed authority for the Zila Panchayat. He also approves the auctions. Considering the circumstances of the case, it will be appropriate that the parties may appear before the Commissioner Allahabad on 14.5.2009 at 12.00 noon. On that date the petitioner may also file his pay order/draft of Rs.2,40,000.00 before the Commissioner. The pay order/draft may be in the name of Upper Mukhya Adhikari, Zila Panchayat, Allahabad. In case pay order/draft is deposited, the commissioner may hold fresh auction between petitioner and Respondent no.8 for the period up to 31.8.2010. The bid will start from 2,40,000.00. With these observations, the writ petition is disposed off.