
(2019) 08 UK CK 0150
In the Uttarakhand High Court
Case No : Special Appeal No. 766 Of 2019

Satyam Eco Products	Vs	APPELLANT
State Of Uttarakhand And Others		RESPONDENT

Date of Decision : 22-08-2019

Acts Referred:

Citation : (2019) 08 UK CK 0150

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : S.K. Mandal, B.S. Parihar, Dharmendra Barthwal

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. S.K. Mandal, learned counsel for the appellant, Mr. Dharmendra Barthwal, learned Standing Counsel for the second respondent and Mr. B.S. Parihar, learned Standing Counsel for the State Government and, with their consent, the Special Appeal is disposed of at the stage of admission.

2. This appeal is preferred against the order passed by the learned Single Judge in Writ Petition (M/S) No. 1687 of 2019 dated 01.08.2019. The appellant-writ petitioner invoked the jurisdiction of this Court filing the said Writ Petition seeking a writ of certiorari to quash the order dated 08.10.2018 approving the quotation of respondents 7 to 11; and a writ of mandamus directing and commanding respondents 1 to 6 to issue a work order, to supply dustbins, to the petitioner pursuant to the advertisement dated 27.09.2018 as he had quoted the lowest rate.

3. Facts, to the limited extent necessary, are that, as part of the action required to be taken under the Swachh Bharat Abhiyan, the District Project Management Unit (fifth respondent) issued an advertisement inviting quotations from interested persons for supply of 25 litre swing plastic dustbins to around 350

Village Sanitation Committees. Pursuant thereto, the petitioner also submitted their quotation for 25 litre dustbin of Polywell brand quoting their price as Rs. 290/- per dustbin. Three other firms also offered to supply 25 litre Polywell dustbins at a far higher rate. By proceedings dated 08.10.2018 (which is impugned in the Writ Petition), the fifth respondent standardized the rates; and informed all Village Sanitation Committees that 25 litre Polywell dustbins shall not be procured at a price higher than Rs. 290/-, which is the price quoted by the petitioner.

4. Contending that the fifth respondent had erred in permitting other firms (respondents 7 to 11) to also supply 25 litre dustbins of Polywell at Rs. 290/- per dustbin, though they had quoted a far higher price; and the Village Sanitation Committees ought to have been directed to procure such dustbins only from the petitioner, the writ jurisdiction of this Court was invoked by the petitioner-properitrix.

5. In the order under appeal, the learned Single Judge observed that the project was a Government of India Project which was being supervised by the District Project Management Unit; the stand taken by the respondents, in their counter affidavit, was that their role was only to see that sub-standard material was not supplied to the village bodies; in the exercise of their supervisory powers, they had called for quotations; and the prices, at which the present dustbins were required to be procured, were fixed only in the interest of the village committees.

6. The learned Single Judge noted that the appellant-writ petitioner had quoted the lowest rates, but supplies had already been made to 120 of the 350 villages, and only 250 villages now remained; and, therefore, no interference was called for. The learned Single Judge directed that, for the remaining work, the notification should specify the quality, steadiness and thickness of the swing plastic dustbins, since the earlier advertisement was not clear as to what kind of swing plastic dustbins should be supplied by each of the applicants. Aggrieved thereby, the present Special Appeal.

7. Mr. S.K. Mandal, learned counsel for the appellant-writ petitioner, would contend that, on quotations being invited by the fifth respondent and on the appellant-writ petitioner being found to have quoted the lowest price, the fifth respondent ought to have directed all the Village Sanitation Committees to procure 25 litre Polywell swing plastic dustbins from the appellant-writ petitioner alone; the action of the fifth respondent, in permitting other suppliers, who had quoted a far higher price, to effect supplies of these dustbins at the rate quoted by the appellant-writ petitioner, is arbitrary and illegal; in the light of the directions issued by the fifth respondent, the Village Sanitation Committees had, even without inviting tenders, resorted to procure such dustbins from other suppliers also; and, therefore, a direction should be issued to the fifth respondent to direct the Village Sanitation Committees to procure the 25 litre Polywell swing plastic dustbins only from the appellant-writ petitioner, and not from the other suppliers who had quoted a far higher price.

8. On the other hand Mr. Dharmendra Barthwal, learned counsel appearing on behalf of the fifth respondent, would submit that the quotation invited by the fifth respondent was not for effecting supplies of 25 litre Polywell swing plastic dustbins; it was more in the nature of inviting applications for expression of interest i.e. to fix a price above which the Village Sanitation Committees should not procure dustbins of the stipulated quality; since the appellant-writ petitioner had quoted the lowest price of Rs. 290/-, for a 25 litre Polywell swing plastic dustbin, the Village Sanitation Committees were informed that they should not procure such dustbins at a price higher than Rs. 290/- per dustbin; the choice of the person, from whom such dustbins should be procured, lies with the concerned Village Sanitation Committees; and the fifth respondent was, therefore, justified in leaving it open to the Village Sanitation Committees to procure the 25 litre Polywell swing plastic dustbins from any supplier, but at a price not exceeding Rs. 290/- per dustbin.

9. A bare reading of the order impugned in the Writ Petition shows that what was fixed by the fifth respondent was the price at which the Village Sanitation Committees were required to procure these dustbins. The said order nowhere stipulates that the Village Sanitation Committees are required to procure these dustbins from a particular supplier, or that they should not procure it from the appellant-writ petitioner. While the maximum rate payable for a 25 litre Polywell swing plastic dustbin was fixed at Rs. 290/- per dustbin, the choice of the supplier, from whom such dustbins were to be procured, was left to the discretion of each Village Sanitation Committee.

10. Any grievance which the appellant-writ petitioner may have, regarding procurement of these dustbins from other suppliers, can only be agitated against the concerned Village Sanitation Committees, since it is they who have chosen to procure these dustbins from suppliers other than the appellant-writ petitioner. Neither have the Village Sanitation Committees been arrayed as respondents in the present Writ Petition, nor is their action, in procuring these dustbins from other suppliers, subjected to challenge. It would be wholly inappropriate for us, therefore, to examine the contention, that these Village Sanitation Committees were procuring these dustbins without inviting bids, without even putting them on notice and without giving them an opportunity of being heard.

11. Since the order impugned in the Writ Petition was only an exercise of prescribing the maximum rates below which alone were these Village Sanitation Committees required to make payment for procurement of 25 litre Polywell swing plastic dustbins and other kinds of dustbins, and the said order does not stipulate the supplier from whom alone the Village Sanitation Committees should procure these dustbins, the order impugned in the Writ Petition cannot be faulted.

12. Mr. S.K. Mandal, learned counsel for the appellant-writ petitioner, would seek liberty to question the action of the Village Sanitation Committees in procuring 25 litre Polywell swing plastic dustbins from other suppliers even without inviting bids. Suffice it, while dismissing the Special Appeal as devoid of merits, to make

it clear that the order now passed by us shall not disable the appellant-writ petitioner from questioning the action of each particular Village Sanitation Committee in case procurement of 25 litre Polywell swing plastic dustbins by them is contrary to law.

13. The Special Appeal, however, fails and is, accordingly, dismissed. No costs.