

**(2023) 04 UK CK 0086**

**In the Uttarakhand High Court**

**Case No :** Writ Petition (M/S) No. 120, 131, 132 Of 2023

Shoorveer Singh & Others

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

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**Date of Decision :** 27-04-2023

**Acts Referred:**

**Citation :** ?

**Hon'ble Judges :** Vipin Sanghi, CJ;Alok Kumar Verma, J

**Bench :** Division Bench

**Advocate :** B.M. Pingal, B.S. Parihar

**Final Decision :** Disposed Of

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## **Judgement**

Vipin Sanghi, CJ

1. We have heard learned counsel for the petitioners in these matters, as well as learned counsel for the respondents.
2. The common set of facts in these petitions are that the respondent-authorities invited tenders on 17.10.2022 (recorded in our order dated 11.01.2023, as 18.10.2022) for carrying out repair works in the irrigation canals. The details of the three of the works under the three tenders are the following:-
3. The writ petitioners along with other bidders participated in the tendering process. The tender opening process in all these tenders was fixed on 16.11.2022. The Executive Engineer issued a notice, which was displayed on the notice board, to state that the tenders have been opened, but due to technical issues and slow speed of internet, the downloading of the tenders was taking time. It was informed through the said notice, that the action in relation to the tenders would be taken on 23rd and 24th November, 2022. This notice was put up by the Executive Engineer on the notice board on 18.11.2022.
4. It appears that in respect of each of these tenders, a majority of bidders participated after having noticed the notice put up by the Executive Engineer on

the notice board. In respect of the three works, there were 19 bidders, of whom 13 participated in the tenders opening process. Of the remaining 06 bidders, some claimed that they were not put to notice about the postponement of the date of opening of the tenders, and about their scrutiny, and that, therefore, they could not participate in the tenders opening process when the scrutiny of the bids was held on 23rd and 24th November, 2022. Consequently, some of them made complaints alleging irregularity in the opening of the tenders. The said complaints were made to the District Magistrate concerned.

5. It appears that the District Magistrate, being unaware of the fact that, in the meantime, petitioners having been found to be technically qualified; the lowest bidders in respect of the three works, in question; who had already been awarded the works, directed cancellation of the tenders vide his order dated 23.12.2022. Without any show-cause notice to the petitioners, the works awarded to them were cancelled by the Executive Engineer. Consequently, they have preferred these writ petitions.

6. From the aforesaid facts and circumstances, it emerges that there was substantial compliance by the respondents in the matter of processing of tenders, inasmuch, as the notice was put up on the notice board intimating reasons for the tenders not being opened and processed on the date fixed, i.e. 16.11.2022, and the process being adjourned to 23rd and 24th November, 2022. Since the majority of the bidders were aware of the change and did participate in the tenders opening process, which was held on 23rd and 24th November, 2022, it cannot be said that there was lack of transparency in the tenders opening process.

7. Pertinently, it was not the case of the complainants, and even before us, it is not stated that the petitioners were not the respective lowest bidders in respect of the three works. No infirmity in their technical bids has been highlighted by the respondents. In these circumstances, we are of the view that the cancellation of the petitioners' award of works/ contracts, without putting them to notice, was completely unjustified.

8. Accordingly, we quash the Office Memorandum dated 09.12.2022 and the fresh advertisement dated 25.12.2022 issued by the respondents to re-advertise the works.

9. Since the petitioners were adjudged as the lowest bidders and issued work orders, which have not been cancelled, it goes without saying that they shall be entitled to enforce their rights under the said Contract.

10. The writ petitions stand disposed of in the aforesaid terms.

11. Pending application, if any, also stands disposed of.