

(2022) 02 UK CK 0088

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 325 Of 2022

Shourya Impex

APPELLANT

Vs

Bharat Heavy Electrical Limited And Another

RESPONDENT

Date of Decision : 21-02-2022

Acts Referred:

Citation : (2022) 02 UK CK 0088

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : B.M. Pingal, Pankaj Singh Chauhan, I.P. Kohli

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. By means of this writ petition, petitioner has sought the following reliefs:-

"I. Issue a writ, rule, order or direction in the nature of certiorari quashing the impugned order dated 11.02.2022 issued by respondent no.2 (contained as Annexure No.1 to this writ petition) or to mould the relief appropriately, keep petition. in view the facts highlighted in the body of writ

II. Issue a writ, rule, order or direction in the nature of mandamus directing the respondent authorities to permit the petitioner to deposit the remaining installment with delayed interest in respect to 4th, 5th and 6th lots of material Code: SCP510000010 by extending /rescheduling the date as mentioned in the acceptance/ sale orders detail dated 02.01.2020 for 4th, 5th and 6th lots by issuing delivery order in favour of the petitioner"

2. It transpires that B.H.E.L. had issued an e-auction notice, inviting bids for disposal of Ferrous Turning & Boring Scrap mixed with Balling Strips Scrap. Petitioner submitted bid pursuant to the said e-auction notice and he was found to be the highest bidder. The acceptance letter/sale order issued to petitioner is on record as Annexure No.2. Perusal thereof reveals that scrap was to be lifted in

6 lots (each lot containing 200 metric tons) and the payment for the first lot was to be made within 15 days from the date of sale-order and payment for the second and subsequent lots was to be made within 30 days, after last date of payment specified for the earlier lots.

3. According to the petitioner, he lifted the first two lots within the stipulated time, after paying price of scrap and taxes. However regarding third lot, which was to be lifted on 16.03.2020, due to COVID-19, the same could be lifted only on 07.01.2021, although petitioner had deposited the price therefor on 31.10.2020. According to the petitioner, thereafter he was not permitted to lift any lot, despite repeated representations, although he had offered to pay the price alongwith interest on the delayed payment.

4. Petitioner is aggrieved by a communication dated 15.02.2020, issued by Deputy Manager-CSX, B.H.E.L., Haridwar, whereby petitioner was informed that Competent Authority has decided to cancel the contract for the remaining lots/ quantity, and the security amount of the petitioner has been forfeited on the ground that petitioner failed to adhere to the payment schedule for 4th, 5th and 6th lot.

5. Learned counsel for the petitioner submits that petitioner is not at fault as he was ready and willing to lift the 4th, 5th and 6th lot; petitioner had made representation seeking permission to make the payment, but his representations went un-headed with the authorities.

6. Per-contra, Mr. I.P. Kohli, learned counsel appearing for B.H.E.L. submits that petitioner has committed default, inasmuch as he has not deposited any amount for lifting the 4th lot. He further submits that the price of Ferrous Turning & Boring Scrap mixed with Balling Strips Scrap has increased substantially during the last two years and permitting the petitioner to lift the remaining lots at old price would not be in the interest of B.H.E.L. He however submits that if petitioner makes a representation to the Competent Authority in B.H.E.L., the same shall be considered sympathetically.

7. In such view of the matter, writ petition is deposed of with liberty to petitioner to make fresh representation to the Competent Authority in B.H.E.L. within one week from today. It shall be open to the petitioner to make such representation through e-mail. The Competent Authority shall consider the representation submitted by petitioner and pass appropriate order as per law, as early as possible, but not later than two weeks from the date of receipt of representation. For a period of three weeks or till decision on petitioner's representation, whichever is earlier, status-quo as on today shall be maintained.