
(2015) 01 BOM CK 0252
In the Bombay High Court
Case No : Writ Petition No. 7115 of 2014

Shri Ganesh Carriers

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 08-01-2015

Acts Referred:

Citation : (2015) 3 MhLj 274

Hon'ble Judges : Anoop V. Mohta, J;A.R. Joshi, J

Bench : Division Bench

Advocate : Anand Jaiswal, Senior Advocate and M.P. Khajanchi, for the Appellant; Bharti Dangre, G.P. and S.S. Doifode, AGP, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Anoop V. Mohta, J.

1. Rule. Rule made returnable forthwith. Heard finally by consent of the parties. The petitioner, who participated in earlier tender process for transportation of food-grains in Nagpur district, has now filed present writ petition for quashing and setting aside the re-tender notice dated 2nd December, 2014 for transportation of the food-grains for the period from 2013 to 2016. A prayer is also made to accept the earlier tender/offer submitted by the petitioner it being the lowest one.

2. There is no dispute that the higher competent authorities of respondents, based upon the tender conditions had earlier rejected tender/case of the petitioner by communication dated 9th July, 2014, quoted rates were 271% more. However, the District Supply Officer by communication dated 18th September, 2014 though accepted the finding that the rates are more than 271% times, by referring to awarding of contracts in other areas, observed that it is only 20% more than the base rates and recommended to go for negotiations, as such offer is already given by the petitioner. The respondents, in the background,

considering their power and authority and by giving sufficient reasons, once again rejected the offer of the petitioner, on the ground so referred above, and further considering the point of view of revenue. The authority of State if not willing to give the petitioner further opportunity even of negotiations and published a fresh tender which, in our view, cannot be stated to be bad in law and of beyond the authority. To accept or not to accept any offer is within the domain and control of the State Authority. The reasons so provided, as referred above, just cannot be stated to be arbitrary, discretionary and/or beyond the conditions so imposed. In some areas the tenders of similar nature, as contended by the petitioner, have been accepted that itself, in our view, cannot be a sufficient ground to direct the respondents to accept the petitioner's tender, which as referred above already rejected for the reasons so stated. There is no case of an illegality or mala fide action.

3. The submission that, in other similarly placed matters the learned Vacation Judge, Bench at Aurangabad, on 3rd June, 2014 in W.P. (St.) No. 13673 of 2014 granted some ad interim relief, that also cannot be the reason to grant the relief as we are deciding this matter finally. Therefore, taking overall view of the matter and as there is no perversity and/or illegality in taking such a decision of re-tender by the respondents and as it is in the interest of public at large and as it is well within the framework of law and conditions so framed, apart from the powers, authority, no case is made out to grant the relief so prayed. The petition is dismissed. The petitioner, however, is at liberty to participate in the tender process.

Rule stands discharged. No costs.