
(2019) 10 UK CK 0022
In the Uttarakhand High Court
Case No : Special Appeal No. 661 Of 2019

Shri Mal Chand	Vs	APPELLANT
State Of Uttarakhand And Others		RESPONDENT

Date of Decision : 14-10-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 10 UK CK 0022

Hon'ble Judges : Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Xitij Kaushik, Puja Banga, V.K. Kapruwan

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. Xitij Kaushik, learned counsel for the appellant-writ petitioner, Ms. Puja Banga, learned Brief Holder for the State of Uttarakhand and Mr. V.K. Kaparuwan, learned Standing Counsel for the third respondent and, with their consent, the Special Appeal is disposed of at the stage of admission. This Special Appeal is preferred by the petitioner in Writ Petition (M/S) No. 1856 of 2019 aggrieved by the order passed by the learned Single Judge dated 27.06.2019 dismissing the Writ Petition in limine.

2. The appellant-writ petitioner invoked the jurisdiction of this Court seeking a writ of certiorari to set-aside the tender notification dated 14.06.2019 issued by respondents 10 and 11; and for a writ of mandamus restraining respondents 2 and 3 from inviting tenders, in respect of works of Rs. 5.00 lacs to Rs. 10.00 crores, in favour of any civil contractor; and to direct respondents 2 and 3 to ensure that all works, relating to development and construction, should be done as per the Government Order dated 19.12.2017.

3. The appellant-writ petitioner's case, in short, is that, in terms of the Government Order dated 19.12.2017, the seventh respondent has been assigned

and notified as the working agency for all construction works for the amount between Rs. 5.00 lakhs and 10.00 crores; for construction of works of Rs. 10.00 crores and above, the Managing Director, Bridge, Ropeway, Tunnel And Other Infrastructure Development Corporation Of Uttarakhand Limited (BRIDCUL) has been notified as the working agency; and, consequently, respondents 2 and 3 could not have issued tenders directly inviting applications from eligible civil contractors.

4. In the order under appeal, the learned Single Judge observed that the appellant-writ petitioner, a former MLA, is neither a person aggrieved by the said order, nor is he the beneficiary of the Office Memorandum dated 19.12.2017; and even otherwise the Office Memorandum dated 19.12.2017 does not bar the Forest Department and the Uttarakhand Forest Development Corporation from inviting tenders from civil contractors, as it only states that the Uttarakhand Agriculture Production Marketing Board is the designated agency to undertake the work.

5. Admittedly, the appellant-writ petitioner is neither a participant in the tender, nor does he claim to be eligible to be awarded any such work in terms of the Office Memorandum dated 19.12.2017. Save in cases where the Public Interest Litigation jurisdiction of this Court is invoked, the jurisdiction of this Court, under Article 226 of the Constitution of India, can only be availed by a person aggrieved by the action/inaction of the respondents.

6. The appellant-writ petitioner is, admittedly, neither a tenderer for the civil works, nor does he claim to be a beneficiary of the Office Memorandum dated 19.12.2017. The learned Single Judge has, in our opinion rightly, non-suited the appellant-writ petitioner on the ground of lack of standing.

7. Interference in an intra-Court appeal is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

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