
(2008) 01 JH CK 0029
In the Jharkhand High Court

Sigma Computer

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 21-01-2008

Acts Referred:

Citation : (2008) 2 CTLJ 358 : (2008) 1 JCR 600

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

Narendra Nath Tiwari, J.—The petitioner, in this writ petition, has prayed for quashing the order, contained in Letter No. JGMTRTC 095/Ranchi dated 9th March, 2007 issued by the respondent No. 4, whereby the Purchase Order Nos. F.O./PKG 5.00/001/Ranchi/053 and F.O./PKG 5.00/001/Dumka/054, both dated 5th February, 2007, for supply of computers and peripherals and delivery of the goods at the respective sites have been cancelled. Petitioner has further prayed for quashing the Notice Inviting Tender published in the newspaper on 1st April, 2007, whereby tenders have been invited for supply of goods for which the purchase orders were issued to the petitioner.

2. According to the petitioner, the order was placed for purchase of the computers etc. pursuant to his offer made as per the DGS and D Rate Contract dated 29th January, 2007. Pursuant to that, two referral order were placed, being Ref. Nos. F.O./PKG 5.00/001/Ranchi/053 and F.O./PKG 5.00/001/Dumka/054, both dated 5th February, 2007, for supply of computers and peripherals and delivery of goods at the respective sites. According to the petitioner, the Finance Department, Government of Jharkhand, had taken resolution dated 28th October, 2003 to purchase goods as per DGS and D Rate Contract in stead of floating any tender. There was no illegality and arbitrariness in making decision in favour of the petitioner and placing the order. However, by order dated 9th March, 2007 issued under the signature of the Respondent No. 4, purchase orders dated 5th February, 2007 for supply of computers and peripherals and delivery of goods at the respective sites have been suddenly

cancelled and Notice Inviting Tender was published in the newspaper on 1st April, 2007. It has been stated that the said order of cancellation of the purchase orders has been issued without giving any notice or opportunity of hearing to the petitioner and the same is vitiated, arbitrary and violative of principle of natural justice and is liable to be quashed by this Court. It has been submitted that the petitioner against the said arbitrary order approached the Principal Jharkhand Government Mini Tool Room and Training Centre, Ranchi as also the Principal Secretary, Department of Industries, Government of Jharkhand, but his representation has not been considered and no order has been passed. The petitioner has to ultimately take resort to this Court by filing the instant writ petition.

3. A counter affidavit has been filed on behalf of the Respondent No. 4, stating, inter alia that the first tender for procurement of Computer Hardware, LAN and Office Equipment was sent to IPRD for publishing in the newspaper on 28th June, 2006 and, accordingly, some tenderers were responded against the ITT, such as HCL Infosys Ltd., Swastik Sotech (P) Ltd., Wipro Infotech, Sharp Business System (I) Ltd., Bute Shopee and P.C.S. Technology and the petitioner had never applied in terms of the invitation for tender i.e. ITT.

4. Mr. A.K. Sinha, learned Senior Counsel, appearing on behalf of the Respondent No. 4 submitted that the petitioner is a mere service provider and is not a manufacturing company and at its instance, this writ petition is not maintainable. He further submitted that the purchase orders were made without following the prescribed norms and no right whatsoever accrued to the petitioner. The petitioner is not entitled for any notice or opportunity of hearing. There is no substance in the petitioner's allegation that the rule of natural justice has been violated by cancelling the purchase orders.

5. I have heard learned Counsel for the parties and considered the averments, facts and material brought on record. Grievance of the petitioner is that the purchase orders were placed by the department in accordance with due procedure and the cancellation order without giving him any notice or opportunity of hearing is arbitrary and violative of principle of natural justice. In support of the said ground, the petitioner has made factual submissions. The petitioner has stated that it had approached the concerned authority after issuance of the impugned cancellation order, but the authority concerned has not considered his representation and has not passed any order.

Mr. A.K. Sinha, learned Senior Counsel, appearing on behalf of the Respondent No. 4 informed that the principal Secretary,- Department of Industries, Government of Jharkhand, is the competent authority to consider the petitioner's representation and to pass appropriate order. The petitioner without waiting for the decision of the said authority has rushed to this Court.

6. Since the petitioner has raised several factual controversies and at the same time made a grievance of violation of the principle of natural justice, it is

desirable that the competent authority must consider the petitioner's representation and pass appropriate order. In view of the above, this writ petition is disposed of giving liberty to the petitioner to file a fresh representation within a week from today, giving all the required details, before the Principal Secretary, Department of Industries, Government of Jharkhand. The said authority, on receipt of the representation, shall consider the same and pass appropriate order, in accordance with law, within a period of three weeks from today. Until final decision is taken, the respondents shall not finalise the fresh tender floated for the said purpose.