
(2010) 07 JH CK 0075
In the Jharkhand High Court

Simran Enterprise

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 05-07-2010

Acts Referred:

Citation : (2010) 07 JH CK 0075

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

R.K. Merathia, J.—Mr. Rajesh Kumar, learned Counsel appearing for the petitioner, submitted that taking advantage of clerical mistake on the part of the petitioner, his bid has been rejected and the work has been given to respondent No. 6-M/s Jai Durga Trading; and that the work be given to the petitioner for which, he is ready to compensate Respondent No. 6.

2. Mr. Anil Kumar Sinha, learned senior Counsel appearing for the Jharkhand State Forest Development Corporation (Corporation for short), submitted that the Corporation and its officers were bound by Clause 15 of the Tender document.

3. Mr. Anil Kumar, learned Counsel appearing for respondent No. 6, supported the impugned action. He further submitted that the work in question has progressed considerably in last six months, and therefore it may not be interfered with.

4. It appears that offers were invited by the Corporation for advance sale of Kendu Leaves for 2010 season with regard to different territorials/part territorial range, hereinafter referred to as the "range".

5. According to the petitioner, it made offer for "R.R. Simdega West "D" range but by clerical mistake, "E" was mentioned in place of "D", though the unit number and name corresponding to "D" range was correctly mentioned. It is further submitted that "D" range is for 4800 bags, against which petitioner offered Rs. 57,99,999, and that the said amount could not be treated for "E" range which related to 1100 bags only, for which the offers were in between 8 to

10 lacs every year. It is further submitted that petitioner made representation on the next day of opening the bid, as soon as the said mistake was learnt, but without giving opportunity to correct the mistake, work was given to respondent No. 6. Counsel for the petitioner also indicated to the background of respondent No. 6, saying that a notice of blacklisting was issued to it's predecessor in interest, and the Corporation was/is fighting litigation with respondent No. 6 for realization of it's decretal amount.

6. In the tender document, in column 3 the name of range is given, and in column 4 and 5 number and name of corresponding units is given.

7. Clause 15 of the Tender document relied by all the parties stipulates that if the number and name of unit has not been mentioned in the offer, corresponding to the range, the offer will be treated for the range mentioned in the offer. It is not in dispute that the numbers and name of units mentioned by the petitioner in the offer, corresponds to range "R.R. Simdega West "D". Thus, petitioner's offer should have been treated for range "D" ignoring letter "E" mentioned in the column of name of range, in place of "D". It is also not disputed by the respondents that offer for "E" were between 8-10 lacs per season. Apparently, "E" was mistake for "D". Petitioner should have been given an opportunity to correct the clerical mistake when it represented on the next day of the opening the bid, specially in view of the background of the parties.

In my opinion, the action of the Corporation is wholly Pedantic. The Corporation and it's officers themselves are responsible for creating this situation, in which not only the petitioner, but the Corporation has also suffered loss.

8. Now, the question is, what is to be done at this stage? On 19.1.2010, the following interim order was passed:

In the meantime, the security of the petitioner will not be forfeited for failure by the petitioner to execute the agreement in respect of RR. Simdega West E.

9. Mr. Anil Kumar appearing for respondent No. 6, on being asked, agreed to enhance the bid amount to Rs. 58 lacs for "D" range, offered by the petitioner.

10. For balancing the equity, the bid of respondent No. 6 for range "D" is enhanced to Rs. 58 lacs - the highest amount offered by the petitioner, and the Corporation is directed to return the security of petitioner, within four weeks.

With these observations and directions, this writ petition is disposed off.