courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 20/09/2026

(2023) 08 RAJ CK 0109

In the Rajasthan High Court

Case No : Civil Writ Petition No. 11770 Of 2023

SMC Foods Limited APPELLANT

Vs

State Of Rajasthan And Others RESPONDENT

Date of Decision : 25-08-2023

Acts Referred:
Constitution Of India, 1950 — Article 226

Citation : (2023) 08 RAJ CK 0109

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : Akhilesh Rajpurohit, Ravi Maloo, Sandeep Shah, Abhimanyu Singh

Final Decision : Dismissed

Judgement

Dr. Pushpendra Singh Bhati, J

1. This writ petition under Article 226 of the Constitution of India has been preferred claiming the following reliefs:

"It is therefore, humbly prayed, that this writ petition may kindly be allowed and :-

i. by an appropriate writ, order or direction, quash the Tender process initiated by TENDER No.MSTC/JPR/Directorate of Mines & Geology Rajasthan Udaipur/54/Udaipur/23-24/15159 dated 10.7.2023 and may be directed to initiate the tender process afresh with all consequential directions;

ii. without prejudice to the prayer clause-i and in the alternative by an appropriate writ, order or direction, the respondents may kindly be directed to consider the technical bid of the petitioner and further the respondents may kindly be directed to allow the petitioner to submit its Initial Price Offer with all consequential directions;

iii. Any other appropriate order or direction, which this Hon'ble Court considers just and proper in the facts and circumstances of the case, may kindly be passed in favour of the petitioner.

iv. Costs of the writ petition may kindly be awarded to the petitioner.”

2. Brief facts of the case, as placed before this Court by learned counsel for the petitioner-Company, are that the respondent issued a Notice Inviting Tender (NIT NO. MSTC/JPR/Directorate of Mines & Geology Rajasthan Udaipur/54/ Udaipur/23-24/15159) on 10.07.2023 for the purpose of granting of mining leases/composite license for the blocks of Major Mineral. The last date for purchase of tender document was fixed as 25.07.2023, upon payment of a fees to the tune of Rs. 2 Lacs and the last date of submitting the technical bid along with the requisite documents was 14.08.20203 (upto 1.00 PM).

2.1 The petitioner submitted the tender in question and also submitted a physical copy of the technical bid along with bank guarantee to the tune of Rs. 89,52,375/- on 10.08.2023; thereafter, the petitioner attempted to upload the technical bid along with Initial Price Offer (IPO) online on the respondent’s portal before the deadline, but due to some technical glitch/ error, the same could not be uploaded in time.

3. Learned counsel for the petitioner submitted that the petitioner made all efforts to submit its technical bid in time and the petitioner firstly contacted the help desk of the respondent portal on 14.08.2023 at 11.24 AM and bring the technical glitch/ error to their notice; such glitch/error clearly reveals that same plagued the online portal of the respondent.

3.1. Learned counsel further submitted that no third party right was created, if the bid of the petitioner is accepted. It was further submitted that the petitioner deposited the prescribed fee of Rs. 2 Lacs and also arranged the bank guarantee of Rs.89,52,375/-within time, which clearly shows the bona fides of the petitioner. In Support of his submissions relied upon the judgment rendered by Hon’ble Apex Court in the case of Dr Vijay Laxmi Sadho Vs Jagdish (2001) 2 SCC 247.

3.2. Learned counsel for the petitioner also submitted that the identical controversy came up before a Coordinate Bench of this Hon’ble Court at Jaipur Bench in the case of Smo Ferro Alloys Pvt Ltd. Vs State of Rajasthan & Ors. (S.B.C.W.P. No. 9814/2023, decided on 07.07.2023), whereupon, the said writ petition was allowed, with a direction to the respondents to consider the technical bid of the petitioner therein, as submitted physically, and if the petitioner is found technically qualified, then to accept the IPO of the petitioner physically, as it is stated that the online option once closed cannot be reopened, and allow the petitioner to participate in the tender process, as per merit.

“ANALYSIS

8. Heard the arguments advanced by both the sides, scanned the record of the writ petition and considered the judgments cited at Bar.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/smc-foods-limited-appellant-hash-…

9. The limited issue which is to be decided by this Court is whether the petitioner was prevented from uploading the technical bid along with IPO online for reasons beyond its control and if yes, what relief, if any, could be granted to the petitioner at this stage?

10. The deadline for submission of online bid along with IPO was 1. 00 PM on 21.06.2023. Any time before the deadline is valid time for filing/uploading the bid. As per the clause 8 of the tender documents, the technical bid was to be submitted both physically and electronically and the IPO was to be submitted only electronically. Physical submission of IPO would lead to summary rejection of the bid. It is undisputed that the physical copy of the technical bid was submitted on time. It is also undisputed that the petitioner attempted to upload the soft copy of the technical bid along with IPO on 21.06.2023, before the deadline of 01.00 PM. Upon perusal of Annexures 2-4, it is abundantly clear that the bid of the petitioner could not be uploaded due to technical errors over which the petitioner had no control. It is also abundantly clear that the petitioner remained vigilant throughout and made attempts to get the problem resolved with the respondentDepartment and MSTC ever since 12.29 PM on 21.06.2023, i.e before the deadline of 1. 00 PM. A notice was also sent to MSTC on 21.06.2023 itself and the writ petition was also filed promptly.

11. In the case in hand, the bonafide of the petitioner is not disputed nor are there any allegations of malafide on the respondent. Admittedly, the petitioner has undertaken several tenders from the respondent-Department and is working consistently with the Government for more than two decades and have a good track record. Therefore it can safely be assumed that the petitioner company was well aware about the E-Auction procedure. The petitioner company had also deposited the prescribed fee of Rs. 2 Lakhs and arranged bank guarantee of Rs. 3.70 crores well within time, which further establishes their bonafide.

12. In these peculiar facts and circumstances, considering that since the bonafide of the petitioner is established; since no prejudice will be caused to the State if the petitioner is allowed to participate in the tender process; since no third party rights have been created thus far; since the non-submission of online bid of the petitioner was due to technical error over which the petitioner had no control; since the involvement of petitioner in the tender process would be in the larger public interest as it would promote competition, and considering the ratio of Apex Court judgment of Tata Cellular vs. UOI (supra), this Court is of the opinion that substantial rights of the petitioner should not be affected due to procedural and/ or technical errors/lapses.

13. In view of the above, this Court directs the respondents to consider the technical bid of the petitioner submitted physically and if the petitioner is found technically qualified, then to accept the IPO of petitioner physically, as it is stated that the online option once closed cannot be reopened, and allow the petitioner to participate in the tender process as per merit."

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/smc-foods-limited-appellant-hash-…

3.3. Learned counsel further submitted that the petitioner has participated in several tender processes and is well aware about the procedure for e-tender; the bid in question is scheduled to be opened on 25.08.2023 and the petitioner has been allowed to participate in the tender process in question. It was also submitted that the petitioner immediately preferred this writ petition on 16.08.2023, which shows the interest of the petitioner to participate in the tender process in question.

4. On the other hand, Mr. Sandeep Shah, learned Senior Counsel and Additional Advocate General assisted by Mr.Abhimanyu Singh Rathore appearing on behalf of the respondents, while opposing the aforesaid submissions made on behalf of the petitioner, submitted that the present petition is not maintainable, because the petitioner has an alternative remedy under Clause 17.04 of the tender in question, by way of filing an appeal before the Principal Secretary, Mines and Petroleum Government of Rajasthan.

4.1. It was further submitted that Clause 1.12 of the tender in question provides that, "Bidder shall be responsible for any problem at the Bidder's end like failure of electricity, loss of internet connection any trouble with Bidder's computer etc. which may cause inconvenience or prevent the Bidder from bidding in e-auction."

4.2. It was also submitted that in the aforementioned writ petitioner (S.B.C.W.P. No. 9814/2023), the specific issue was that that due to technical errors, the petitioner therein could not upload the bid for participating in the tender process, and the said judgment was rendered in the peculiar facts and circumstances of that case only. It was further submitted that in the present case, the petitioner not been able to point out any technical glitch, in the system. It was further submitted that the petitioner himself uploaded the documents on 14.08.2023 from 12:03 PM to 1:00 PM, but did not upload the bid.

4.3. It was also submitted that there was no glitch/error in the system and the petitioner was also not having the requisite system/software and the same was informed by the help desk of the respondent. Therefore, as per the respondents, the present petition is liable to be dismissed.

5. Heard learned counsel for the parties as well as perused the record of the case alongwith judgments referred at the Bar.

6. This Court observes that the respondents invited the aforementioned tender on 10.07.2023 and the last date of submission of the technical bid along with the documents was 14.08.2023 upto 1.00 AM. The petitioner submitted the bid letter dated 02.08.2023, whereafter, the petitioner failed to upload the technical bid along with IPO online on the respondent's portal by the last date.

7. This Court observes that the Smo Ferro Alloys Pvt Ltd (Supra) is not completely applicable in the present case, because the respondent mentioned the requisite specifications for participation in the tender process in question, viz. Operating System-Windows 10, 11, Web Browser- IE Microsoft Edge and other

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/smc-foods-limited-appellant-hash-…

details, on the website of MSTC for Major Mineral Block Auction. The petitioner tried some other software and after the communication with the respondent's help desk, it was informed to the petitioner that it had not used the specified software, and that, there was no technical glitch/error on part of the respondent.

8. This Court also observes that Clause 1.12 of the tender in question clearly stated that, "Bidder shall be responsible for any problem at the Bidder's end like failure of electricity, loss of internet connection any trouble with Bidder's computer etc. which may cause inconvenience or prevent the Bidder from bidding in e-auction". The petitioner has failed to submit the bid within the stipulated time, on count of its own fault, and thus, the petitioner cannot contend that the same could not be done on count of technical glitch/error on part of the respondent.

9. This Court further observes that the petitioner himself has uploaded documents on 14.08.2023 from 12:03:044 to 1:00:20, but the petitioner did not upload the bid, therefore, it is clear that there was no technical glitch/error on part of the respondent at all.

10. This Court also observes that if the petitioner wished to participate in the tender process in question, then it was necessary for it to complete the whole process before the last date, but the petitioner failed to do so, for which the respondent cannot be held liable, on count, amongst others, of technical glitch/ error, more particularly, when the petitioner clearly failed to establish such technical glitch/error on part of the respondent.

11. The judgments cited at the Bar on behalf of the petitioner do not render any assistance to its case.

12. In light of the above observations and looking into the factual matrix of the present case, this Court does not find it a fit case so as to grant any relief to the petitioner in the present petition.

13. Consequently, the present petition is dismissed. All pending applications stand disposed of.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/smc-foods-limited-appellant-hash-…