
(2011) 05 SHI CK 0060
In the High Court Of Himachal Pradesh
Case No : CWP No. 7140 of 2010

Swati Storwel Pvt. Ltd.

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 07-05-2011

Acts Referred:

Citation : (2011) 05 SHI CK 0060

Hon'ble Judges : V.K. Ahuja, J

Bench : Single Bench

Judgement

V.K. Ahuja, J.—Both the writ petitions can be disposed of by a common judgment since a common question of law is involved.

2. The Petitioners have filed the present writ petition claiming the reliefs as under:

(a) A writ of Mandamus & Prohibition by directing the Respondent No. 1 to 7 not to finalize the rate contract with the Respondents No. 8-11 & if the orders of purchase for the same has been placed by the Respondents No. 4 & 5, with the Respondents No. 8-11 then the Respondents No. 8-11 may please be directed not to make the supplies of the same & if yet the inspection of the approved rate contract item is not carried out by the officials of the I & PH & Industries department, then the officials of both these departments may please be also directed not to inspect the same & thirdly if the inspection & supplies have already been made as of today then in that eventuality the Respondents No. 1-7 may please be restrained from making the payments to the Respondents No. 8-11, with the further directions to all the Respondents to place the purchase orders for supplies of HDPE water pipes on record for quashing & setting aside of the same by issuing a writ of.

(b) A writ of Certiorari by quashing the purchase orders of the approved rate contract item as per annexure P-2, which may have been awarded during the pendency of present writ petition to the Respondents No. 8-11 by declaring them

as illegal, arbitrary, unconstitutional & void ab-initio & has been issued in a perfunctory & discriminatory manner.

3. A notice of the petition was issued to the Respondents, who filed their replies.

4. I have heard the learned Counsel for the parties and have gone through the record of the case.

5. It is clear from a perusal of the record that the rate contract of the Petitioners and other private Respondents numbering eight in all were approved by the Additional Controller of Stores and vide his letter dated 28.9.2010 Annexure P-2, this information had been conveyed to the Joint Director (Industries) and other concerned persons. Condition No. 8 of the terms and conditions of Schedule-A, reads as under:

The Purchaser shall be bound to make equal distribution of the supply orders to the extent possible amongst the firms holding rate contract.

6. By a meeting convened on 4.10.2010, the officers of the Respondents placed orders to M/S Himalayan Pipe Industries, Respondent No. 8, M/S Plato Industries Ltd., Respondent No. 9, M/S Himalayan Plastics Ltd., Respondent No. 10 and M/S Manjushree Plastics Pvt. Ltd., Respondent No. 11, insofar as Pangri is concerned.

7. I am considering the allotment for Pangri, for which the rates were approved and names of eight Firms were approved for the supply order with them.

8. It is the case of the Petitioners that though the rates of all the eight Firms were approved for Pangri and Kaza, but the Respondents adopted a policy of pick and choose and awarded some contracts to these Firms for Pangri area. The grievance of the Petitioners is that their case have not been considered by the officers of Respondent No. 4, though the rates of the Petitioners and others were also approved for placing supply order to them in an equal manner as far as possible. A photo copy of communication dated 28.9.2010 placed on record by the learned Counsel for the Petitioner as Annexure A-1, the rates for approval were conveyed of only two Firms, namely, M/S Himalayan Pipe Industries, Respondent No. 8 and M/S Plato Industries Ltd., Respondent No. 9. The fact remains that the names of eight Firms were approved for the rate contract for supply of pipes and not only of two Firms and subsequently, Respondent No. 4 placed orders to four Firms ignoring the case of the Petitioners. The grievance of the Petitioners is that their cases have been ignored in placing the supply orders and preference has been given to four Firms only as above.

9. The learned Deputy Advocate General submits that in case any fresh orders are placed by Respondents No. 4 to 7, the case of the Petitioners shall be considered suitably and they shall be given preference to other Firms, who had already been given the orders for the supply of pipes. The preference shall be given to the Petitioners who had been ignored and their case shall be considered on priority basis before placing the orders, compared to the Firms, who had already been given the orders for the supply of pipes. The Petitioners will be

satisfied in case such an order is passed and it is ordered accordingly. The learned Counsel for the Petitioners submits that cases of the Petitioners had been ignored and preference has been given only to four of the Firms while placing the orders and this point may be probed into by the Director of Industries-cum-Controller of Stores, as to why the orders issued by him for placing the orders to the eight Firms were not complied with in letter and spirit. He may conduct a suitable enquiry and whatever action he proposes, can be suggested insofar as the officers of Respondents No. 4 to 7 are concerned, within three months from today as far as possible.

10. In view of the above observations, both the writ petitions stand disposed of accordingly, so also the pending miscellaneous application(s), if any. Interim order in both the petitions stand vacated.

Copy Dasti to all the parties.