

(2019) 12 CHH CK 0159
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 4465 Of 2019

Upkaran Pharmaceuticals Registered	Vs	APPELLANT
State Of Chhattisgarh Through And Anr		RESPONDENT

Date of Decision : 06-12-2019

Acts Referred:

Citation : (2019) 12 CHH CK 0159

Hon'ble Judges : P.R. Ramachandra Menon, J; Parth Prateem Sahu, J

Bench : Division Bench

Advocate : K. Rohan, Gagan Tiwari, C. Jayant K. Rao

Final Decision : Disposed Of

Judgement

P.R. Ramachandra Menon, CJ

1. The Petitioner has moved this Court with following prayers:

"10. a) Call for the entire records pertaining to the present case.

b) Issue a Writ of Certiorari & quash and set aside the impugned Summary Sheet of Cover A dated 07.11.2019 (ANNEXURE - P/1) declaring the Petitioner to be "Not Eligible/Ineligible".

c) Issue a Writ of Mandamus directing the Respondent Authorities to consider the Objections raised by the Petitioner and to further consider the Clarification submitted by the Petitioner to the objections raised.

d) Issue a Writ of Mandamus directing the Respondent Authorities to treat the Petitioner as 'Eligible' and Permit/Allow the Petitioner to participate in the Tender Process.

e) Issue a Writ of Mandamus directing the Respondent Authorities to consider the candidature of the Petitioner and its' Bid for the award of the Tender Contract.

f) Grant the cost of the petition to the Petitioner.

g) Grant any other relief as deemed fit and proper in the facts and circumstances of the case.

2. Heard Shri K. Rohan, the learned counsel for the Petitioner, Shri C. Jayant K. Rao, the learned counsel representing for the Respondent-Medicine Corporation and Shri Gagan Tiwari, the learned Deputy Government Advocate for the State.

3. The Petitioner is stated as a Government accredited sole proprietorship concern, engaged in the business of manufacture of 'Ayurvedic Drugs'. Pursuant to Annexure-P/2 Tender dated 01.06.2019 floated by the Respondent-Corporation for supply of various medicines and such other items, the Petitioner also wanted to participate in the same and being qualified in all respects, submitted the bid in this regard with all the relevant testimonials in the prescribed manner. While so, the Petitioner was served with Annexure-P/10 dated 25.10.2019, pointing out that there was some mistake / inconsistency with regard to the facts and figures supplied by the Petitioner along with the Tender; insofar as the 'License Number' mentioned in the 'Manufacturing License' and the one mentioned in the 'GMP Certificate' were different. Copy of the License has been produced as Annexure-P/11 (page 125), where the 'License Number' shown is '25D/54/85', whereas in the 'GMP Certificate' produced as Annexure-P/11 (page 128) it is '25D/9/05'. It is only on pointing out the above discrepancy by the Respondent- Corporation that the Petitioner noted the difference in the number and immediately steps were taken before the Competent Authority, who issued the said License / Certificate to make necessary corrections. The grievance projected by the Petitioner was considered and the authority concerned realized the mistake occurred on their side and it was accordingly that a corrected certificate was issued as Annexure-P/11 dated 26.10.2019 (page 126), whereby the Number was corrected and affirmed as '25D/54/85'. Immediately, the said certificate was produced by the Petitioner before the Respondent-Corporation and sought to have the bid considered. But, the Respondent-Corporation expressed its disability stating that it is an 'e-Tender' and as such, only those documents which were already uploaded could be considered by the Corporation; which otherwise will be in violation of the notified terms. This made the Petitioner to approach this Court by filing writ petition with the prayers extracted above.

4. During the course of hearing, it is brought to the notice of this Court that only the 'Technical Bid Evaluation' has been conducted and that the 'Price Bids' are still to be opened. It is also pointed out by the learned counsel for the Respondent- Corporation that the only defect insofar as the Petitioner is concerned is with regard to the discrepancy in the License Number / GMP Certificate and nothing else.

5. After hearing both the sides, we are of the view that the Petitioner has committed no mistake in uploading the copies of the documents in connection with the participation in the bid and whatever has been issued by the Competent Authority alone could have been produced, which has been done. The

discrepancy in the number came to the notice of the Petitioner only when that was pointed out by the Respondent-Corporation and immediately necessary remedial measures were taken. The Competent Authority, who issued the License / Certificate corrected themselves and issued a corrected Certificate as borne from Annexure-P/11 dated 26.10.2019 (page 126), where the correct 'License Number' has been affirmed as '25D/54/85'. This has been produced by the Petitioner before the authorities concerned.

6. This being the position, obviously since there was no mistake or default or lapse on the part of the Petitioner in any manner, but for the mistake committed by the Competent Authority, who issued the License / Certificate, we are of the view that a fair opportunity has to be given to the Petitioner as well to participate in bid by virtue of his credentials. Accordingly, we direct the Respondent-Corporation to consider the credentials of the Petitioner as well, with regard to the technical bid and to have the price bid submitted by the Petitioner to be considered alongwith the price bids of the qualified candidates in pursuant to the Annexure-P/2 Tender notified by the Corporation.

7. The writ petition stands disposed of.