

(2011) 01 JH CK 0037

In the Jharkhand High Court

Case No : Writ Petition (C) No. 4651 of 2010

Vijeta Projects and Infrastructures Limited Previously known
as Vijeta Construction Limited.

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-01-2011

Acts Referred:

Citation : (2011) 2 JCR 159

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

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K. Merathia. J.

1. Heard the parties finally.

2. Mr. Giri, learned senior counsel appearing for the Petitioner submitted that the Petitioner was the lowest bidder in the tender, which was floated in the year 2008. The matter was referred to the High Level Committee as the rate offered was more than 10%, from the estimated rate. The Committee referred the matter to the Finance Department and the Vigilance department. The then Finance Commissioner, in his note dated 11.7.2010, was of the view that the matter be referred back to the said Committee, but without considering the entire matter, the then Advisor to the Governor, by order dated 12.7.2010, though accepted the said proposal of the Finance Commissioner, but observed that it will be proper that a fresh tender is floated. Mr. Giri further submitted that now the Department has floated the fresh tender with the estimated cost which is more than the rate agreed by the Petitioner. He further submitted that when the Petitioner is ready to work, at the rate agreed re-tender will also be against the public interest. He also submitted that the Petitioner is not at fault in any manner.

3. On the other hand, Mr. Rajesh Shanker, learned Counsel appearing for the

Respondents submitted that there were several discrepancies in the earlier tender process and, therefore a decision was rightly taken for re-tender the work, involving huge amount. He further submitted that only because the Petitioner was the lowest bidder in the earlier tender, he cannot object to the fresh tender, which has been floated as per the decision of the Government.

4. It appears from the note of the Finance Commissioner dated 11.7.2010, that he observed certain discrepancies/defects in the earlier tender process. He inter alia indicated that only one day's notice was given to the Finance Department, whereas in such important matters at least 5-7 days notice should have been given; and that no background materials were annexed with the notice; and that it is not clear why the Water Resources Department is taking the stand that re-tender will not be in public interest; and that it is not clear why the expert members did not take part in the meeting; and that the tender was floated in the year 2008 without the technical sanction, though it was granted in March 2010. The Finance Commissioner, then observed that a fresh meeting of the Committee can be held in which the finance Department, will place its views. The then Advisor to the Governor, though, approved the said proposal, but observed that it will be proper that fresh tender process is started.

5. After going through the records carefully, this Court does not find any fault in the impugned decision making process and no fault is found in the decision for starting fresh tender process. On the ground that the Finance Commissioner, recommended for sending the matter back to the Committee, but a decision was taken for fresh tender, on the basis of opinion of the Advisor to the Governor; or that the Petitioner is ready to work on the earlier rates, which are lower than the new estimated rates the Petitioner cannot be allowed to challenge the fresh tender process. From the notes of the Finance Commissioner itself, as noticed above, it is clear that there were serious flaws in the earlier tender process. This Court cannot and should not examine the wisdom of the Government. The scope of judicial review in such matters is very limited. There is no arbitrariness or mala fide in this case.

6. In the result, this writ petition is dismissed and consequently, the interim order stands vacated.