

S.B.Civil Writ Petition NO.1113/2005**M/s. Bhanwar Singh & Party****vs****The State of Rajasthan & Ors.****DATE OF ORDER : - 25.2.2005****HON'BLE MR. PRAKASH TATIA,J.**

Mr. H.S.Srimali, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner has preferred this writ petition as petitioner assumes that since the mining department has issued notice inviting tenders in the newspaper dated 2.2.2005 (Annex.1) and fixed the minimum contract rate as Rs.14 lacs, but the mining department will accept the tender of applicant of their choice and likely to reduce the contract amount substantially on the ground that no 'Bajari' is available in the entire area. According to learned counsel for the petitioner in the entire area no 'Bajari' is available and, therefore, the rate is no higher side also and because of this reason the petitioner will not be able to get the contract as in case the petitioner will submit the tender quoting the rate as Rs.14 lacs then petitioner will be submitting the tender for excavating the 'Bajari' also when as petitioner and the department both know it well that the 'Bajari' is not available in the entire area.

It appears that petitioner has preferred the writ petition only on assumption. In Annex.1, quantity of 'Bajari', 'Kankar' and 'Murram' has not been mentioned. It appears from the Annex.1 that the rate for all these minerals have been fixed, irrespective of the quantity of the minerals. Therefore, even if there is less quantity of any of the article mentioned in Annex.1, the contractor cannot have plea that he took the contract on the basis of any fixed quantity of any particular item.

In view of the above, even if, if someone submits tender and obtains the contract and find no 'Bajari' in the entire area or less quantity of 'Bajari' or any of the article then also naturally he will be having the contract at his own risk. There appears to be no reason that the mining department will not act fairly or has not acted fairly in the matter and mentioned the item 'Bajari' in the Annex.1, to deprive other persons from submitting the tender.

In view of the above, I do not find any merit in this writ petition and the same is hereby dismissed.

(Prakash Tatia), J.

c.p.goyal/-