



High Court of Sikkim

Record of proceedings

WP(C) No.71 of 2017

M/s. Rosmerta Technologies Limited

Petitioner

VERSUS

State of Sikkim and Others

Respondents

Date : 11-12-2019

CORAM : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

For Petitioner

Mr. Meg Nath Dhungel, Advocate.
Ms. Hemlata Sharma, Advocate.
Ms. Rachana Rai, Advocate.

For Respondents

R-1 to R-3

Dr. Doma T. Bhutia, Additional Advocate General.
Mr. Thinlay Dorjee Bhutia, Government Advocate.
Ms. Pollin Rai, Assistant Government Advocate.

R-4

Mr. Aman Preet Singh Rahi, Advocate.
Mr. D. K. Siwakoti, Advocate.
Ms. Prarthana Ghataney, Advocate.

ORDER

1. It is submitted by Learned Counsel for the Petitioner that the State-Respondents be directed to withdraw the letter dated 10-07-2017 (Annexure P19) issued by the Secretary, Transport Department to the Director of the Petitioner Company. That, the contents of the letter reflects that a show cause was issued by the Delhi Government to the Petitioner Company for violation of terms and conditions of the contract agreement and that the matter is *sub judice*. It has also been reflected in the correspondence that after discussions and details available, it was confirmed that the matter is still pending before the Arbitration Tribunal at New Delhi and is *sub judice*. That, consequently in terms of the powers conferred by Clause 2.23.5, 2.23.6 and 2.23.7 of Section III of Bid document (NIT



High Court of Sikkim

Record of proceedings

25-07-2014) the State Government is not in a position to accept the bid and award the contract for High Security Registration Plates to the Petitioner Company. That, the State Government has decided to re-tender. Learned Counsel for the Petitioner submits that in view of the foregoing details as reflected in the letter, the Petitioner Company apprehends that the contents therein will be used against them in any other Fora in future, thereby causing prejudice to the Petitioner Company.

2. *Per contra*, it is submitted by Learned Counsel for the Respondent No.4 that, nothing further remains in the matter in view of what has been recorded in the Orders of this Court dated 27-11-2019. Learned Counsel for the Respondent No.4 advanced the submissions that on the last date Counsel for the Petitioner had submitted that the Petitioner will not be pressing Prayers (B) and (C) of the Writ Petition and will confine his prayers only to the Prayer (A). It had also been submitted that the Writ Petition has become infructuous because of the amendment of Rule 50 of the Central Motor Vehicles Rules, 1989, yet if the letter dated 10-07-2017 is allowed to stand on record the same will cause prejudice to the Petitioner. It was admitted by the Petitioner Company that they did not participate in the NIT dated 17-08-2017. It was further admitted that even if the letter dated 10-07-2017 is set aside, the directions contained in the Order of this Court dated 13-06-2017 in WP(C) No.53 of 2015 to award a Letter of Intent to the Petitioner would be an infructuous order. That, accordingly the Petitioner would not press for grant of Letter of Intent pursuant to the NIT dated 25-07-2014. That, the contents of the impugned letter are innocuous and the matter cannot linger on sans any basis and deserves to be dismissed.



High Court of Sikkim

Record of proceedings

3. Learned Additional Advocate General submits that once the Prayers (B) and (C) of the Writ Petition have been abandoned up by the Petitioner then Prayer (A) would be rendered infructuous and thereby the Petition ought to be dismissed.

4. I have considered the submissions of Learned Counsel for the parties.

5. Prayers of the Petitioner in the Writ Petition are as follows;

- “(A) Issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India to quash and set aside the impugned letters dated 10.07.2017 rejecting the Petitioner’s bid in respect of NIT Bid No.05/MV/2014 dated 25.07.2014 for implementation of High Security Registration Plates in the State of Sikkim on Build Own and Operate basis;
- (B) Issue a writ of mandamus or any other writ, directing the Respondents to issue the Letter of Intent and award the contract for implementation of High Security Registration Plates in State of Sikkim on Build Own and Operate basis to the petitioner, in lieu of it being technically and financially qualified as per the terms and conditions of NIT Bid No.05/MV/2014 dated 25.07.2014;
- (C) Issue a writ of mandamus or any other writ, directing the Respondent No.3 to cancel the award of Letter of Intent granted in favour of M/ TEST Security Pvt. Ltd.
- (D) Issue any such relief reliefs as the nature and circumstances of the case may require and as this Hon’ble Court may deem fit and proper.”

6. Admittedly, Prayers (B) and (C) *supra* have been abandoned by the Petitioners. It may be recapitulated that in WP(C) No.53 of 2015 this Court vide its Order dated 13-06-2017 had ordered as follows;



High Court of Sikkim
Record of proceedings

“7. Considering the facts put forth and the submissions as reflected hereinabove, the impugned letters dated 10-04-2015, 14-05-2015 and 28-07-2015 are hereby set aside and the Writ Petition is disposed of with the following directions;

- (i) The State-Respondents No.2 and 3 will consider afresh the Representation dated 12-05-2015 of the Petitioner, addressed to the State-Respondent No.3, affording the Petitioner adequate opportunity of being heard, pursuant to which a reasoned order shall be issued by the State Government.
- (ii) The above exercise shall be completed within thirty days from today.
- (iii) In the event that the finding of the Government is in favour of the Petitioner, then the LoI shall be issued to the Petitioner within forty-five days of such finding.
- (iv) However, I hasten to add that no observation of this Court should prejudice the State-Respondents No.2 and 3 in arriving at its finding.”

7. Pursuant thereto, necessary steps have taken by the State-Respondents and after an opportunity of hearing given to the Petitioner Company, the impugned letter dated 10-07-2017 was issued.

8. From a reading of the Order, dated 27-11-2019 of this Court, ante, it is evident that the Petitioner has conceded that the matter is infructuous. For clarity, it would be apposite to extract the relevant portion of the Order dated 27-11-2019 which reads as follows;

“

Mr. Uppal submits that the petitioner will not be pressing prayers (B) and (C) of the Writ Petition and will confine his prayer only with regard to the prayer (A). He further submits that although, in any way, the Writ Petition has become infructuous because of amendment of Rule 50 of Central Motor Vehicle Rules, 1989, yet, if the letter dated 10.07.2017 is allowed to stand on record, the same will cause prejudice to the petitioner in future. Mr. Uppal also submits



High Court of Sikkim
Record of proceedings

that in view of fresh tender process having been initiated, being Notice Inviting Tender dated 17.08.2017, in which the petitioner did not participate, even if the letter dated 10.07.2017 is set aside, direction contained in the order of this Court dated 13.06.2017 in WP(C) No.53/2015 to award a Letter of Intent to the petitioner would be an infructuous order and therefore, he submits that the petitioner will not press for grant of Letter of Intent pursuant to Notice Inviting Tender dated 25.07.2014.
.....”

Admittedly the impugned letter does not make any false allegations against the Petitioner Company.

9. In my considered opinion, in view of the submission of Learned Counsel for the Petitioner on 27-11-2019 and the submissions put forth by Learned Counsel for the parties today, nothing further remains for adjudication in the matter.

10. Accordingly, Writ Petition stands disposed of as dismissed.

11. I.A. No.01 of 2018 also stands disposed of.

Judge
11-12-2019