

(Proceeding through Video Conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 105 of 2022

Mithileshwer Ray S/o Shri Sushil Ray, Aged About 40 Years Proprietor of Aditya Forging And Fabrication, R/o F-203, Mayuri Heights, Maitrikunj, Risali, Police Station Nawai, Bhilai, District Durg (C.G.)

---- Petitioner

Versus

1. South Eastern Coalfields Limited Through Its Chairman And Managing Director, Head Quarters, Seepat Road Bilaspur, District Bilaspur (C.G.) 495006
2. The Area General Manager, South Eastern Coalfields Limited, Korba Area, District Korba (C.G.)
3. The Staff Officer, Material Management Department, South Eastern Coalfields Limited, Korba Area, District Korba (C.G.)
4. The Staff Officer, Electrical And Maintenance Department, South Eastern Coalfields Limited, Korba Area, District Korba (C.G.)
5. The Area Finance Manager, South Eastern Coalfields Limited, Korba Area, District Korba (C.G.)
6. The Director (Technical) South Eastern Coalfields Limited, Head Quarters, Seepat Road, Bilaspur, District Bilaspur (C.G.)- 495006
7. Black Diamond Equipments Pvt.Ltd. Through Its Director, Indira Commercial And Residential Complex, Transport Nagar, Korba, District Korba (C.G.)

---- Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Sunil Pillai, Advocate
For Respondent Nos. 1 to 6	:	Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Arup Kumar Goswami, Chief Justice

Hon'ble Shri N.K. Chandravanshi, Judge

Order on Board

Per Arup Kumar Goswami, Chief Justice

31.01.2022

Heard Mr. Sunil Pillai, learned counsel for the petitioner and Mr. Pankaj Agrawal, learned counsel appearing for respondent Nos. 1 to 6.

2. Rejoinder to the reply filed by respondent Nos. 1 to 6 is taken on record.
3. Respondent Nos. 2 to 6 floated online tender for procurement of certain spares for feeder breaker (Black Diamond Equipment Pvt. Ltd. make). The technical bid opening date was scheduled for 09.10.2021. The petitioner is also a manufacturer of spares for feeder breaker of any make available in the market and he participated in the online bid. The respondent No.7 was held qualified in the technical bid. A representation was filed by the petitioner on 04.12.2021 for reviewing the decision for purchase through Original Equipment Manufacturer. By an e-mail dated 07.12.2021, it was informed that procurement of spares of feeder breaker through Original Equipment Manufacturer was resorted to as such spares are considered as critical spares and as the same are also proprietary items.
4. The petitioner has essentially assailed the said e-mail dated 07.12.2021 and the Notice Inviting Tender to the extent of eligibility criteria prescribed therein.
5. By an order dated 11.01.2022 of this Court, the bid No. GEM/2021/B/1/1557270, which is the Notice Inviting Tender, was directed not to be finalized till 20.01.2022. On 20.01.2022, Mr. Pankaj Agrawal had submitted that contract in question was finalised on 31.12.2021 before the interim order was passed. However, interim order was extended in order to enable Mr. Pillai to obtain instructions.
6. On 27.01.2022, none appeared for the petitioner on call. However, Mr. Pankaj Agrawal had submitted that there is no surviving cause of action as the supply has already been effected.

7. Today also, Mr. Agrawal reiterates the aforesaid submission and contends that contract was awarded on 31.12.2021 and supply had been effected on 07.01.2022 and in this connection, he has drawn our attention to certain invoices filed along with covering memo dated 21.01.2022.

8. Mr. Pillai, however, submits that supply has not been effected.

9. It is undisputed that tender has been settled with the respondent No.7 on 31.12.2021. The said order has not been put to challenge till now.

10. In that view of the matter, without expressing any opinion on merits, the writ petition is disposed of, providing that the petitioner, if so advised, may raise the issue as raised in this petition and challenge the award of contract in favour of respondent No.7, in accordance with law.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(N.K Chandravanshi)
Judge