

Court No. - 2

Case :- WRIT - C No. - 11480 of 2024

Petitioner :- Nalanda Engicon Private Ltd. Patna Thru. Its Authorized Signatory Mr. Deepak Kumar Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Housing Urban Planning Govt. Lko. And 3 Others

Counsel for Petitioner :- Aditya Vikram Shahi, Ripu Daman Shahi

Counsel for Respondent :- C.S.C., Ratnesh Chandra

Hon'ble Rajan Roy, J.

Hon'ble Brij Raj Singh, J.

1. Heard Sri Ripu Daman Shahi, learned counsel for the petitioner, Sri Rahul Shukla, learned counsel for opposite party no.1 and Sri Ratnesh Chandra, learned counsel for opposite party nos.2 to 4.

2. This matter has been taken up during winter vacations under the orders of Hon'ble the Chief Justice on account of urgency shown by the petitioner.

3. By means of this petition, the petitioner has sought a writ of certiorari for quashing the decision dated 27.12.2024 by which its reply to the objections raised by opposite party no.4 for rejecting the technical bid of the petitioner has been decided and rejected. Consequential relief of being allowed to participate in the financial bid has also been sought.

4. After hearing the parties what comes out is that two reasons have been given for rejection of technical bid, firstly, that the solvency certificate from the District Magistrate as was required in terms of the tender documents was not furnished. Secondly, as against the requirement of similar completed works costing not less than the amount equal to 50 per cent of the estimated cost which was an alternative to other two options in this regard, it has been mentioned that the percentage of such similar work in the petitioner's completed work is very small, meaning thereby, the petitioner does not have adequate experience of similar works as per the requirements of tender document and the needs of opposite parties who have issued the tender document.

5. With regard to the first contention, Sri R.D. Shahi, learned counsel for the petitioner submitted that registered office of the petitioner is at Patna in Bihar and there is no such provision in the said State for issuance of solvency certificate by the District Magistrate instead solvency certificate from the Bank where the petitioner has an account has been submitted. Sri Ratnesh Chandra, learned counsel for the contesting opposite parties submits that this does not satisfy the terms and conditions of the tender document. It is also his submission that the petitioner, if aggrieved, should have challenged the tender condition at the appropriate stage. Not having done so and having accepted the same and participated in the tender process, now he cannot raise this contention.

6. As regards the second ground, Sri R.D Shahi, learned counsel for the petitioner submits that the cost of the work completed by the petitioner of a similar nature is Rs. 178.91 crore which is more than the required amount of Rs.17834.14 lakhs. As regards similarity of the work, he says that it is also factually incorrect. Per contra, Shri Ratnesh Chandra, learned counsel for the contesting opposite parties invites our attention to the representation submitted by the petitioner which has been rejected to submit that the second ground asserted by the opposite parties has not been denied i.e. it has not been denied that the quantum of similar work claimed by the petitioner is of a small percentage and does not meet the requirements of the opposite parties. He further submitted that certain documents which have not been annexed according to which the Earthwork, P.C.C and R.C.C work done by the petitioner which he claims to be of a similar nature amounts to only 49% of the total work required to be done in pursuance of the tender process which does not satisfy the requirements of the opposite parties.

7. Having heard learned counsel for the parties and having perused the records, we find merit in the submission of Sri Ratnesh Chandra, learned counsel for opposite party nos.2 to 4. If the petitioner was aggrieved with the conditions requiring solvency certificate from the District Magistrate, it should have challenged the same at the appropriate stage. Having participated in the tender process, now, it is too late in the day to challenge the same i.e. after the rejection of its technical bid. As regards the second ground for rejection of technical bid, we find that it is sufficient to reject the technical bid of the petitioner as it is ultimately the satisfaction of the opposite

parties and there was a clear stipulation regarding the similar completed work required to have been done by the petitioner in the tender document.

8. Looking into the scope of interference in such matters, we do not find it a fit case for grant of the reliefs prayed for. Accordingly, we **dismiss** the writ petition.

(Brij Raj Singh,J.) (Rajan Roy,J.)

Order Date :- 31.12.2024

Shanu/-