

Rubul Chandra Deka and anr. Vs. the State of Assam and ors.

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Court : Guwahati

Decided On : May-22-2003

Reported in : AIR2003Gau169

Judge : Ranjan Gogoi, J.

Acts : [Constitution of India](#) - Article 299

Appeal No. : WPC Nos. 3213 and 3075 of 2003

Appellant : Rubul Chandra Deka and anr.

Respondent : The State of Assam and ors.

Advocate for Def. : R.K. Bora, Govt. Adv., P. Sarma, J.M. Phukan, D. Chaudhury, A.K. Chaudhury and P. Das, Advs.

Advocate for Pet/Ap. : B.K. Goswami, U.K. Goswami, Advs. in WPC No. 3213/03, S.K. Kataki, A.M. Choudhury and A.J. Das, Advs. in WPC No. 3075/03

Disposition : Petition dismissed

Prior history : 1. Heard Mr. B. K. Sharma, learned senior Counsel for the writ petitioner in WP (C) No. 3213 of 2003. Also heard Mrs. M. Hazarika, learned counsel for Respondent No. 6A, Mr. D. Chaudhury, learned counsel for Respondent Nos. 6 and 7 and Mr. P. Sarma, learned counsel for the Respondent No. 8. Mr. S. Katoky, learned counsel appearing for the writ petitioner in WP (C)

No. 3075/2003 as well as Mrs. M. Hazarika, learned counsel for the Respondent No. 4 in the said writ petition have been duly heard.

Judgement :

1. Heard Mr. B. K. Sharma, learned senior Counsel for the writ petitioner in WP (C) No. 3213 of 2003. Also heard Mrs. M. Hazarika, learned counsel for Respondent No. 6A, Mr. D. Chaudhury, learned counsel for Respondent Nos. 6 and 7 and Mr. P. Sarma, learned counsel for the Respondent No. 8. Mr. S. Katakya, learned counsel appearing for the writ petitioner in WP (C) No. 3075/2003 as well as Mrs. M. Hazarika, learned counsel for the Respondent No. 4 in the said writ petition have been duly heard. Mr. R. K. Bora, learned Government Advocate, Assam appearing for the State respondents in both the cases has been heard. The records in original as produced have been duly perused.

2. A tender notice was published in various newspapers of the State inviting bids for supply of various items to the District Jail at Guwahati. The items were sought to be grouped into different categories marked as Groups A, B, and so on on the basis of the homogeneity of the articles required to be supplied. The present writ petitions seek to challenge the grant of contracts in favour of the concerned Respondents insofar as the supply of items covered by Groups A, C, D, F and G are concerned. It may be noticed that the contract in Group A was awarded to the Respondent No. 6A in W.P. (C) 3123/2003, who is also the Respondent No. 4 in W.P. (C) No. 3075/03. The contract insofar as Group C items is concerned, has been awarded to the Respondent No. 7 in WP (C) 3213/2003 whereas the contract insofar as items in Group D is concerned, that has been awarded in favour of Respondent 6. Insofar as other Groups F and G are concerned, the contracts have been granted in favour of the Respondent 8.

3. A perusal of the elaborate pleadings advanced on behalf of the writ petitioner and the oral contentions made by the learned counsel appearing for the writ petitioner would go to show that the primary thrust of the challenge with regard to the grant of the aforesaid contracts is that the lower offers made by the writ petitioners in both the cases have been ignored and the contracts have been granted to the respective respondents at a higher rate. Having identified the major

plank of the arguments advanced in support of the challenge made, it would be hardly necessary for this Court to go into a detailed recital of the rates quoted by the respective parties. The challenge having been identified, we may now consider the merits of the same.

4. It is trite law that ordinarily in matter of grant of contract for supply of goods to the State, the lowest offer is to be preferred, The preference of the lowest rate is obviously dictated by consideration of public policy and the need to save public money. However, the lowest/lower offer can be ignored by the authority for good and sufficient reasons.

5. In the present case, the reasons for refusing to accept the lower offers made by the petitioners in both the cases have been mentioned in their affidavit filed by the State. The stand taken by the State respondents in the affidavit filed, which has been sought to be fortified by several documents in original produced before this Court at the time of hearing, is that the rates quoted by the petitioners in both the cases were abnormally low having no nexus with the prevailing market price of the commodities in question. Such abnormally low price quoted by the petitioners have been contended to have cast serious doubts in the mind of the authority as to the viability of the offers made and the ability of the petitioners to supply the items at the rates quoted. The grounds advanced theoretically and technically would be a good ground if the same is substantiated by records. The records in original, as produced, would go to show that a comparative statement of the rates quoted by all the tenderers for each of the items in each category was prepared, insofar as the major items particularly in Group A is concerned, the market price of such items was obtained from the Food and Civil Supplies Department on the basis of which the viability of the offers made were considered, By way of illustration reference may be made to two items, i.e., Rice and Atta in respect of which tenders were invited. The petitioner No. 1 in WPC 3213/03 Shri Rubul Deka quoted a rate of Rs. 621/- per quintal of rice whereas in respect of Atta Rs. 721/- per quintal was quoted. The petitioner No. 2 offered the same rate for the two items whereas the petitioner in the other writ petition Shri Ashok Kumar Das quoted Rs. 1000/- for the two items in question. The marked rate obtained from the Food and Civil Supplies Department insofar as Rice is concerned is Rs. 950/-

to Rs. 1650/- and for Atta is Rs. 900/- to Rs. 1000/-per quintal. If that be so, the conclusion of the authority that the rates offered by the writ petitioners were below the market rates and, therefore, should not be accepted, cannot be said to be based on irrelevant or extraneous considerations. The records produced, however, would also go to indicate that market rates for several items in different groups, were not obtained and if so obtained had not been placed before the Court, a circumstances strongly relied on by the petitioners. However, the affidavit filed by the respondent State would go to show that certain figures and rates have been mentioned in the affidavit, in respect of several other items in the other groups, which facts must necessarily be understood to be illustrative of the viability of the other offers made by the petitioner without in any way being exhaustive. A microscopic examination of the decision-making process by giving detailed reference of the rate(s) quoted for each item of goods would hardly be necessary. While exercising the writ power to determine the validity of a contract, the approach of the writ Court would invariably be to assume a broad supervisory role over the decision-making process and not to sit as an appellate authority over decisions on questions of facts. Viewed from the aforesaid perspective and taking into account the records produced, I do not find that the grant of contract in favour of the respective respondents as noticed hereinabove, can be held to be vitiated by such errors and/or considerations which would require interference of this Court.

For the aforesaid reasons, I find no merit in both the writ petitions. The same shall stand dismissed. No costs. Interim order, if any, shall stand vacated.

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