

Anapol Vs. J.S.E.B. and ors.

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Court : Jharkhand

Decided On : Jul-18-2002

Reported in : I(2003)BC240; (2003)IILLJ335Jhar

Judge : S.J. Mukhopadhaya, J.

Acts : Bihar Contract Labour (Regulation and Abolition) Act, 1970 - Sections 7; Bihar Contract Labour (Regulation and Abolition) Rules - Rule 18; [Constitution of India](#) - Articles 16 and 226

Appeal No. : Writ Petition (Civil) No. 2999 of 2002

Appellant : Anapol

Respondent : J.S.E.B. and ors.

Advocate for Def. : A.K. Mehta, Adv.

Advocate for Pet/Ap. : Anil Kumar Sinha, Sr. Adv.

Disposition : Petition dismissed

Judgement :

ORDER

S.J. Mukhopadhaya, J.

1. The writ petition has been preferred by petitioner for issuance of an appropriate writ or writ in the nature of certiorari for quashing the decision of the Tender Committee by which the petitioner's tender was rejected on opening of the technical bid.

2. Further prayer has been made for issuance of writ in the nature of mandamus commanding upon the respondents to open the price bid of the petitioner and to allow the contract since the petitioner has duly qualified.

3. The case of petitioner is that the respondents on 7th April, 2002 invited a sealed tender for annual rate contract for deployment of security personnel for security coverage of various important and vital installations/offices. The sealed tender notice for sale of bill of quantity (B.O.Q.) from 10th April, 2002 to 24th April, 2002 was published and 26th April, 2002 at 12.00 hours date and time for submission of tender papers was shown and opening date and time was 26th April, 2002 at 3.00 p.m. Alongwith all tender papers an earnest money of Rs. 50, 000/- was required to be deposited.

Further case of petitioner is that the petitioner purchased the B.O.Q. within time and submitted its tender within time alongwith earnest money of Rs. 50, 000/-. As per Clause 2.0, certain documents were required to be submitted, such as, general and particular experience of past performance in the field of security service in large industrial organisation of Govern-ment / Private undertaking preferably in power sector, valid trade licence from the appropriate authority of doing security service agency, valid trade licence from the department of Labour and Employment showing employment of at least 400 security personnel, valid registration under Employees Provident Fund/Employees State Insurance Act, upto date Income tax Clearance Certificate etc.

4. The grievance of the petitioner is that though he submitted all the requisite documents alongwith B.O.Q. and the trade licence obtained from Labour and Employment department relating to deployment of at least 400 security personnel and there was no stipulation made about taking any licence under the Bihar Contract Labour (Regulation and Abolition) Act, 1970, the claim of petitioner has been rejected on the ground that no such licence under the Bihar Contract Labour

(regulation and Abolition) Act, 1970 produced showing deployment of at least 400 security personnel.

5. The counsel for the petitioner submitted that the petitioner's establishment can be registered only when provided with work as the name and address of the principal employer to be furnished. The aforesaid submission cannot be accepted as an establishment of contract labour required registration under Section 7 of the Act and as per Rule 18 of the Bihar Contract Labour (Regulation and Abolition) Rules, the maximum number of workmen to be employed as contract labour in the establishment is shown in the certificate of registration.

6. The pleading made by the petitioner that its right under Article 16 of the [Constitution of India](#) has been violated is misconceived, the provision of Article 16 being not attracted in a contract matter.

Further, the so-called decision of the Tender Committee rejecting the application of petitioner having not been enclosed, it is not possible for this Court to quash any such proceeding which is not on the record.

7. For the reasons aforesaid and there being no merit, the writ petition is dismissed.

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