

(2008) 07 JH CK 0014
Jharkhand High Court
Case No: None

Gouri Construction

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: July 24, 2008

Hon'ble Judges: R.K. Merathia, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

R.K. Merathia, J.

Heard the parties at length.

2. This writ petition has been filed for quashing the decision taken to allot the work of construction of road, as mentioned in item No. 11 of the Tender No. 1/ 2008-09, in farour of respondent No. 8-Bigal Construction.

3. Mr. Ananda Sen, appearing for the petitioner, submitted that petitioner was the lowest tenderer but work lias been allotted to R-8, on the ground that petitioner did not furnish the Registration Certificate. He submitted that the petitioner had furnished the challan of fee for renewal of his registration certificate, and therefore Bill of Quantity (BOQ) was issued to him on 13.5.2008 and then petitioner submitted the tender on 14.5.2008 along with renewed registration certificate.

4. Mr. Gadodia, appearing for the State, referring to Annexure-A-the comparative statement and Annexure-E-the Minutes of the Tender Committee dated 25.6.2008, submitted that petitioner neither furnished the challan of renewal fee nor the renewed registration certificate as alleged. After considering the objections raised by the petitioner, they were rejected and consequently work was allotted to respondent No. 8 provided he was ready to work on the lowest rate quoted in the tender. He submitted that the decision making process was transparent and therefore this Court may not interfere with the name.

5. Mr. A.K. Sinha, appearing for respondent No. 8, submitted that petitioner's registration certificate expired on 14.4.2008 even after the grace period, and therefore there was no question of its renewal thereafter on 14.5.2008. He further submitted that it is surprising that on 13.5.2008, which was the last date for purchase of the BOQ, petitioner's name was withdrawn from the list of blacklisted contractors, on the basis of a recommendation made one day earlier i.e. on 12.5.2008 and petitioner deposited renewal fee on the same day and on the next day which was the last day of submission of tender, a renewed registration certificate is issued. Referring to the renewal certificate (Annexure-3), he further submitted that by overwriting, the date of issuance of such certificate has been changed from 16.5.2008 to 14.5.2008. He further submitted that respondent No. 8 has agreed to work on the lowest rate and therefore there is no loss to the department.

6. In reply, Mr. Sen submitted that petitioner could not apply for renewal till his name was withdrawn from the list of blacklisted contractors. He further submitted that renewal was granted with effect from 15.3.2005 by the Engineer-in-Chief, Rural Development Department and the name of petitioner was withdrawn from the list of the blacklisted contractors by the same authority and therefore he being one of the parties in the Tender Committee cannot deny the claim of the petitioner. He also submitted that as the BOQ was issued to the petitioner, it has to be presumed that only after being satisfied that petitioner had submitted the challan of renewal fee, BOQ was given to the petitioner.

7. It appears that on 5.10.2006, several contractors including the petitioner (at serial No. 70) were blacklisted. It is really surprising that only on 12.5.2008, a recommendation is made by the Superintending Engineer, Rural Development Department and on that, the name of petitioner is withdrawn from the list of blacklisted contractors on 13.5.2008 i.e. on the last date of purchase of BOQ and on the same day the renewal fee is deposited by the challan; and on the next day i.e. 14.5.2008, which was the last date of submission of tender papers, the purported renewal is allowed with effect from 15.3.2005, though the original registration certificate itself was issued on 17.3.2005. Even if it is presumed that that in stead of "15.3.2008"- "15.3.2005" -was mentioned by mistake in the renewed certificate; the original certificate itself expired on 15th April, 2008 and therefore there was no question of its renewal. It further appears that there is cutting in the date in Annexure-3-the purported renewed registration certificate. There is no explanation for such unusual speed on the part of the Superintending Engineer and the Engineer-in-Chief.

8. However, from the Minutes of the Departmental Tender Committee dated 25.6.2008, it appears that the Engineer-in-Chief, was the Chairman and was also one of the members, of the Committee and it was found by the Committee that petitioner did not furnish the challan for renewal and the renewed certificate, except

the lapsed registration certificate as mentioned in the comparative chart. It further appears that petitioner's objections were considered and then rejected by the Departmental Tender Committee.

9. I find no fault in the decision making process. Accordingly, this writ petition is dismissed. However, no costs.

10. Let a copy of this order be sent to the Secretary, Rural Development Department, Government of Jharkhand, Ranchi, through the State counsel.