

(2014) 05 MP CK 0158

Madhya Pradesh High Court

Case No: W.P. No. 4809 of 2014

Balram Jeswani

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision: May 13, 2014

Hon'ble Judges: Sanjay Yadav, J

Bench: Single Bench

Advocate: Rajesh Panjwani, Learned Counsel, Advocate for the Appellant

Final Decision: Dismissed

Judgement

Sanjay Yadav, J.

Heard on admission.

2. Petitioner, partner of a firm is aggrieved of non supply of tender enquiry qua tender ID 138 MMETT 1400718, Tender No. 0269131434: Bottom Frame Assembly REF: DRG No. ISV 3544 DRG No. 76-513/C and Tender ID: 138 MMETT 14000215 Tender No. 0269131434: Top Frame Assembly Spotted. As per Drg. No. 76-512/B, taken recourse to vide its publication dated 8.3.2014.

3. Material document on record reveals that respondents purchase material from their enrolled vendors through e-prominent system in term of ordinance Factory Board Procurement Manual, 2010 incorporating provision of G.F.R. various government orders and CVC instructions, effective from 1.4.2011. Chapter IV of the Manual deals with Procurement Modes. Clause 4.3 provides for procurement through tender. When the goods are procured by obtaining bids, three standards methods are taken recourse to, viz., (a) advertised tender enquiry (open/global tender enquiry), (b) limited tender enquiry, and (c) single tender enquiry.

4. Procurement of material through limited tender enquiry (clause 4.6.1) is taken recourse to (a) when the competent authority certifies that the demand is urgent. The competent authority should also put on record the nature of urgency and reasons why the procurement could not anticipated (b) There are sufficient reasons

to be recorded in writing by the competent authority, indicating that it will not be in public interest to procure the goods through advertised tender enquiry. The services of supply are definitely known and possibility of fresh source(s) beyond there being tapped is removed. Furthermore clause 4.6.1(g)(iii), (iv) and (v) is stipulated.

(iii) In procurement through limited tender enquiry tenders will be issued to all the established source(s). There may be cases where established sources are less than three. In all such cases LTE shall be issued to minimum two established sources.

(iv) A vendor shall be considered as an established source for a particular item if he has successfully delivered at least 95% of ordered quantity, against one supply order and the same has been accepted as meeting the desired qualitative requirements satisfactorily at the Factory.

(v) When LTE is issued, at the established sources, including sources developed by other factories for a particular item, shall be allowed to participate.

5. Though the petitioner alleges arbitrariness on the part of respondent taking recourse to limited tender enquiry and deprivation of the petitioner of his legitimate right. However, taking into consideration that it is within the powers of the respondents to take recourse to limited tender enquiry and the petitioner being not eligible, no exception can be drawn in the action of respondents; as would warrant an interference.

6. Consequently, petition fails and is dismissed in limine. No costs.