

1
IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE

&
HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 5th OF JULY, 2022

WRIT PETITION No. 9098 of 2022

Between:-

ALL SERVICES GLOBAL PRIVATE LIMITED
THROUGH ITS AUTHORIZED OFFICER SHRI
JAGAT SINGH S/O SHRI K.S.RAJPUT, AGE
ABOUT 45 YEARS WORKING AS AREA
MANAGER, HAVING CORPORATE OFFICE AT
PLOT NO. AG-3, CAMA INDUSTRIAL ESTATE
LTD. GOREGAON, EAST, MUMBAI,
(MAHARASHTRA)

.....PETITIONER

(BY SHRI NAMAN NAGRATH - SENIOR ADVOCATE WITH SHRI
HIMANSHU MISHRA - ADVOCATE)

AND

1. MADHYA PRADESH MADHYA KSHETRA
VIDYUT VITARAN COMPANY LIMITED
THROUGH ITS MANAGING DIRECTOR
NISHTHA PARISAR, BIJLINAGAR,
GOVINDPURA, BHOPAL (MADHYA PRADESH)
2. CHIEF GENERAL MANAGER (HR AND A)
MADHYA PRADESH MADHYA KSHETRA
VIDYUT VITARAN COMPANY LIMITED
NISHTHA PARISAR, BIJLINAGAR,
GOVINDPURA, BHOPAL (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI PRASHANT SINGH - ADVOCATE GENERAL WITH SHRI
ANVESH SHRIVASTAVA - ADVOCATE)

.....
*This petition coming on for admission this day, Hon'ble Shri Justice
Ravi Malimath, Chief Justice passed the following:*

ORDER

The case of the petitioner is that he had submitted bids for a contract floated by the respondents for appointment of service provider agency to supply outsourced manpower for different operations and maintenance works in various circles of Madhya Pradesh Madhya Kshetra Vidyut Vitran Co. Ltd., at Bhopal. The petitioner had bid for Lot No.2. He was awarded the contract and an agreement was entered into between the parties on 10.12.2021. Accordingly, he started work for the contract. Thereafter, certain disputes arose with respect to Lot Nos.1, 3 and 4. In the interregnum, one of the bidders filed Writ Petition No.28117 of 2021 seeking to quash the contract/Letter of Intent issued in favour of respondent No.2 therein with respect to Lot No.1 and also for a direction to respondent No.1 therein not to issue Letter of Intent or not to award the contract of Lot Nos. 3 and 4 to the concerned respondents. Thereafter, by the order dated 08.04.2022, the writ petition was disposed off in view of the fact that the respondent/State enclosed the decision taken in the 136th Business Committee Meeting held on 07.04.2022, indicating that among other issues, they would cancel all letters of awards issued against the specific tender and would take immediate action for termination of the LoA. The notice for termination of contract was issued on 08.04.2022 (Annexure P/12) and thereafter, the order for termination of contract was issued on 26.04.2022 in terms of Annexure-P/15 intimating the petitioner that the competent authority has decided to terminate all the LoAs awarded under the said contract with immediate effect. Questioning the same, the instant petition has been filed.

Shri Naman Nagrath, learned senior counsel appearing for the petitioner's counsel submits that the entire previous litigations were only with reference to Lot No.1, 3 and 4. During the course of the proceedings, the Government took stock of the situation and were advised by the learned Advocate General as well

as the Business Committee. Based on their advice, they came to the conclusion that the furnishing of bids and other matters pertaining to Lot Nos.1, 3 and 4 were not appropriate and therefore had to be recalled. Consequently, they were of the view that since Lot Nos.1, 2, 3 and 4 are interconnected, all the LoAs required to be terminated. Therefore, the impugned order was passed. Hence, he has contended that when there is no allegation whatsoever against the petitioner who has been allotted Lot No.2, the question of cancelling his lot would not arise for consideration. That even according to the letter of termination, the narration is only with regard to Lot Nos.1, 3 and 4. Therefore, if at all the State has any grievance, it is only against Lot Nos.1, 3 and 4 and not against the petitioner's Lot namely Lot No.2.

The same is disputed by the learned Advocate General through the statement of objections filed by them. He submits that during the course of proceedings in the earlier writ petition, certain facts came to their knowledge. Therefore, in the 136th Business Committee Meeting held on 07.04.2022, they have intimated that they would cancel all the letter of awards against the specific tender in question. As a consequence to the same, the tender of the petitioner also has been cancelled. That the lot Nos.1 to 4 are part and parcel of the tender that is floated by the State. Therefore, it is not divisible. If one tender is to be set aside then all the tenders would have to go. Hence, he pleads that as a consequence to the withdrawal of LoAs of Lot No.1, 3 and 4, the lot of the petitioner also has been withdrawn.

Heard learned counsels.

The order of termination (Annexure-P/15) does not indicate any issue so far as the writ petitioner is concerned. The entire narration is with reference to

the allottees namely M/s Primeone Workforce Pvt. Ltd and M/s World Class Services Ltd. They were concerned with Lot Nos.1, 3 and 4. The extract of the advice given by the Business Committee also forms part and parcel of the termination order. It would not be necessary to go into the details as to why Lot Nos.1,3 and 4 were withdrawn but it is suffice to notice that there is no reference at all so far as the petitioner is concerned. In terms of the order of termination of contract (Annexure-P/15), it is narrated in Para No.5 that since all the LoAs awarded under TS 728 were interlinked, as a bidder who obtained LoA in one lot became ineligible for subsequent lots, any decision on a particular LoA would consequently impact the validity of other subsequent LoAs as well. Therefore, it is contended that since the bids of Lot Nos.1,3 and 4 have been removed, the Lot No.2 also gets affected. However, on hearing learned counsel on this very specific point, we do not find any satisfactory answer with regard to the same. Even though the lots may be interlinked or otherwise even if the contention of the State is to be accepted, the interlinking is only so far as eligibility is concerned that if one person is allotted a particular lot then he is not eligible to contest for the other lots. Therefore, he is disqualified from contesting. Therefore, the interlinking which has been pleaded in Para 5 of the order for termination is only an issue referable to eligibility and not on any other issue. However, what is submitted before this Court is that so far as the petitioner is concerned, he has bid only for Lot No.2. Even so far, as the new bid has been called for subsequent to the order of termination, he has not bid for any of the other lot nor has he proposed to bid for the lot that has been called for. Under these circumstances, the argument being advanced by the State that Lot No.2 would also have to necessarily be recalled in view of recalling the LoA of other lots, in our considered view, may not be appropriate.

Therefore, we find that the cancellation of the award in favour of the petitioner may not be justified. The award of the tender was granted to the petitioner in December, 2021. He is executing the contract in terms of the conditions mentioned therein. He has been doing the same for the last about 4 months.

Hence, for all these reasons, the petition is allowed. The order of termination of contract dated 26.04.2022 vide Annexure-P/15 issued to the petitioner is set aside. The petitioner is at liberty to continue the contract awarded to him namely with respect to Lot No.2.

In the present petition, we are only concerned with a validity of the order of termination issued only so far as the writ petitioner is concerned. The termination of the contract so far as the other bidders for Lot Nos.1, 3 and 4 are concerned, is not the subject matter of this petition. In view of setting aside of the order of termination so far as the petitioner is concerned, there is no impediment for the State to proceed so far as Lot Nos.1,3 and 4 are concerned.

(RAVI MALIMATH)
CHIEF JUSTICE

Prar

(VISHAL MISHRA)
JUDGE