



IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 2445 of 2023

Date of decision: 10.08.2023

Rakesh Kumar

.....Petitioner

Versus

State of H.P. & others

...Respondents

Coram:

The Hon'ble Mr. Justice M.S. Ramachandra Rao, Chief Justice.

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

For the petitioner : Mr. Virbahadur Verma, Advocate.

For the respondents: Mr. Anup Rattan, Advocate General with Mr. Rakesh Dhaulta, Mr. Pranay Pratap Singh, Additional Advocates General, Mr. Arash Rattan and Mr. Sidharth Jalta, Deputy Advocates General, for respondents no. 1 to 3.

Mr. K.S. Banyal, Senior Advocate, with Mr. Uday Singh Banyal, Advocate, for respondent no. 4.

M.S. Ramachandra Rao, Chief Justice (*Oral*)

In this writ petition, the petitioner is assailing tender/bid made by the 4th respondent pursuant to e-tender document dt.04.02.2023 (Annexure P-4) for providing cooked diet services for the Civil Hospital Baijnath and Civil Hospital Nurpur, Himachal Pradesh.

2. Two contentions are advanced by the petitioner:

- (a) that Annexure-7 to the e-tender is not uploaded by the 4th respondent; and
- (b) Annexure-5 which is a Check List was not filled up by the 4th respondent.

3. The 4th respondent however contends that as far as Annexure-7 is concerned, the details required in Annexure-7 to be uploaded are contained at page no. 126, which is the copy of the downloaded documents downloaded by the writ petitioner himself, and merely because the information contained therein is not in the proforma indicated in Annexure-7, the tender of the 4th respondent cannot be invalidated.

4. We find force in the said contention because the purpose of Annexure-7 is to furnish the information regarding previous experience of the tenderer, and if that information is contained in a format different from that indicated in Annexure-7, it cannot be said that the information sought has not been supplied by the 4th respondent. There is substantial compliance by the 4th respondent and therefore the tender of the 4th respondent cannot be invalidated on the said ground.

5. Coming to Annexure-5, it is a Check List of the documents to be attached with the pre-qualification bid of the tender. While mentioning an index of the documents to be uploaded, there is a column stating whether the same have been attached or not, requiring the tenderer to say 'Yes' or 'No' as against each of the documents found there.

6. No doubt, the 4th respondent had not mentioned 'Yes' or 'No' as against the items mentioned in the said Annexure-5, but it is not disputed that all the items mentioned in the Check List had been uploaded by the 4th respondent. Merely because the 4th respondent had not mentioned whether or not he had uploaded it by saying 'Yes' or 'No', the 4th respondent cannot be said to have not complied the tender condition.

7. Again, we are of the view that there is substantial compliance of the tender condition by the 4th respondent, and therefore the tender of the 4th respondent cannot be invalidated on this ground.

8. In this view of the matter, we do not find any merit in the writ petition. Accordingly, it is dismissed.

9. Pending application(s), if any, also stands disposed
of.

(M.S. Ramachandra Rao)
Chief Justice.

(Ajay Mohan Goel)
Judge.

August 10, 2023
(hemlata)

High Court