

Manju Gaur And Associates And Anr vs Union Of India & Ors on 14 March, 2022

Author: Dinesh Kumar Sharma

Bench: Dinesh Kumar Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4290/2022

MANJU GAUR AND ASSOCIATES AND ANR Petitioners

Through: Mr. Jitender Mehta, Advocate.

versus

UNION OF INDIA & ORS.

Through:

Mr. Jagjit Singh, Advocate
and 2.

Mr. Bhagwan Swarup Shukla
with Mr. Kamaldeep, Mr. S
Kumar and Mr. Hardik Bed
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CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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14.03.2022

CM APPL. 12762-63/2022 (exemptions)

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1. Exemptions allowed, subject to all just exceptions.

2. The applications stand disposed of.

W.P.(C) 4290/2022 and CM APPL. 12761/2022

3. Issue notice. Mr. Singh, learned counsel who appears for respondent No. 1 and 2 accepts notice. Mr. Bhagwan Swarup Shukla, learned counsel who appears for respondent No.4 accepts notice.

4. Issue notice to respondent No.3 by all permissible modes, returnable on 13.04.2022.

5. The submission of the learned counsel for the petitioner is that respondent No.3, who has been adjudged as the L1 bidder and the award of contract has been issued in his favour, has actually made financial bid which is contrary to the terms of the tender. The petitioner states that the rate quoted by the respondent No.3 is to the tune of Rs.28 lakhs, which is below the minimum amount which

could be quoted, and on this short ground, the respondent No.3 should have been disqualified.

6. In this regard, the reference is made to following clauses;

"07. Schedule B the Value of Schedule B is Rs.30,69,684/- Against the Total Value of work of is 31,32,876/- This value has been arrived based on minimum wages issued by gazette of:- letter No.1/20 (i)/2020- LS-II, dated : 12.10.2020 including + EPF+ESI+GST+ Bonus + Leave payment (i.e. minimum wages effective from 1st October 2020) (Delhi comes under "A" category Minimum wages Taken for Preparation of estimate as per CLC (Chief Labour Commissioner) circular, vide letter No.1/20 (1)/2020-LS-II, dated: 12.10.2020 (i.e. minimum wages effective from 1st October 2020) (Delhi comes under "A" category)

1. Estimation is made on 30 days per months for 24 months The rates of minimum wages should be taken as per latest notification issued by Chief Labour Commissioner (Central)/New Delhi. The rates will be taken based on the latest notification on date of opening the tender. If the tenderer quotes less than the latest Minimum Wages +EPF+ESI+GST+ Bonus + Leave payment of the Officer of the tenderer will be summarily rejected. Hence Tenderers are strictly advised to quote the rates accordingly. The successful tenderer should commence the work within 07 days of Gem-contract generated date/LOA date.

F AWARD OF CONTRACT F1 Award Criteria F1.1 Subject to Clause E 5 and F2 of ITI, the Employer will award, the Contract to the tenderer, whose tender has been determined to be substantially responsive, technically & financially suitable, complete and in accordance with the tender documents and whose evaluated tender price is determined to be lowest. Compliance of mandatory laws i.e. payment of minimum wages, EPF, ESI, bonus and leave wages and service tax will be considered for finalising the tender. Offers not complying with above clause shall be summarily rejected. Note:(Manpower related-Schedule B) The rates should be including charges related to labour on periodical notifications issued by Chief Labour Commissioner (Central) and rates will be decided based on the notification in force on the date of tender opening only. Current Minimum Wages (C), PF, ESI, Bonus, leave wages and GST or other statutory conditions applicable for this work. If the tenderer quotes less than the Current Minimum Wages + EPF + ESI+ Bonus+ leave wages and GST, it is liable for rejection Hence tenderers are requested to quote the rates for estimated cost carefully working out the rates.

Following conditions will be applicable for Schedule-S while quoting bid.

3. The rates of minimum wages should be taken as per latest notification issued by Chief Labour Commissioner (Central)/New Delhi. The rates will be taken based on the latest notification on date of opening the tender. If the tenderer quotes less than the latest Minimum Wages + EPF + ESI +GST + Bonus + Leave Payment, it is liable for rejection;

Hence renderers are advised to quote the rates carefully. The successful tenderer should commence the work within 07 days of Gem-contract generated date/LOA date.

Tenderers to quote Rates for SCHEDULE:

SI. Details of Estimated cost Rate to be Quote in Rs.

No	Schedule			Below	At par
01	Schedule- 'B'	Rs. 30,69,684/ -	In fig In words	The rates of min should be taken notification iss Labour (Centrai)/New rates will be ta the latest notif of opening the t tenderer quotes latest Minimum W + ESI +GST + Bon Leave Payment, i for rejecti Tenderers are ad quote the rates	

7. Mr. Singh, learned counsel who appears for the respondent No.1 and 2 states that he has no instruction in the matter, today.

8. Learned counsel for the petitioner states that petitioner is the existing contractor and the work has not been handed over to the respondent No.3. In case, the position is as stated by the petitioner namely, that respondent No.3 has submitted the financial bid below the minimum amounts stipulated in the tender itself, status quo shall be maintained, till the next date.

ACTING CHIEF JUSTICE DINESH KUMAR SHARMA, J MARCH 14, 2022 Pallavi