

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU
(Through Video Conference)

Reserved on : 20.05.2020.

Pronounced on : 28.05.2020.

EMG-WP(C) No. 2/2020,
EMG-CM No. 1/2020
in
EMG-WP(C) No.3/2020,
EMG-CM No. 2/2010

Laxshmi Transport Company

.....Petitioner (s)

Through :- Mr. Pranav Kohli, Advocate in
EMG-WP(C) Nos. 2/2020 & 3/2020

V/s

Union Territory of Jammu & Kashmir and
others

.....Respondent(s)

Through :- Mr. Raman Sharma, AAG in
EMG-WP(C) Nos. 2/2020 & 3/2020

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGEMENT

01. Both the petitions were taken for final disposal with the consent of the Learned Counsels appearing for the respective parties, taking in to consideration duration of Contract that is from 1-4-2020 to 31-3-2021 and also taking in to consideration the urgency involved in the matter.

02. The respondent No. 3 issued a tender No. e-NIT No. 1 of 2020 dated 27.02.2020 whereby, the registered firms were invited to participate in the tendering process for providing multi-utility commercial vehicles, i.e. trucks, buses, MMV, LMV for use without fuel by Police Department on hiring

basis. Both the petitioners considering themselves to be eligible to participate in the tender process, participated in the tender process. However, the respondents rejected their technical bids by posting on their website on 26.03.2020, the decision, that simply read as ***“Rejected – Fee /PreQual/Technical.”***

03. Initially, both the petitioners aggrieved of rejection of their technical bids by the respondents as uploaded on their website and conveyed on 26.03.2020, filed the writ petitions challenging the rejection of their technical bids on the ground that the respondents have wrongly interpreted Clause 2(5) of Section -1 (Scope of work and special conditions of contract) that provided for the qualifying criteria for participation in the tendering process, that bidder must have rich experience of providing the similar types of vehicles with State Police Department and others. Since no reason for rejection of technical bid was furnished by the respondents on 26.03.2020 as such the petitioners believing that their bids have been rejected solely on the ground that they do not have any experience in supplying the vehicles to Police Department, the petitioners impugned the rejection of their technical bids solely on that ground alone. It was simultaneously pleaded in both the writ petitions that as per e-NIT, the technical bid was to be opened on 12.03.2020 and in case of any unforeseeable circumstances, the same was to be opened on next date or any other date as notified in this regard. However, the petitioners pleaded that the technical bid was neither opened on 12.03.2020 nor on the next date and rather the same was opened on 26.03.2020 without any notification for extension of date for opening of technical bid.

04. The respondents submitted their reply in which it was stated that their bids were not rejected on the grounds as claimed by the petitioners in their

respective writ petitions but on different grounds and also it was stated that the technical bids were opened on 12.03.2020 and after due deliberations, decision was taken to open the financial bids of the bidders, who qualified the technical criteria, on 26.03.2020. The respondents submitted that the writ petitions have been filed on wrong facts and prayed for their dismissal.

05. Both the petitioners after the response was filed by the respondents filed supplementary affidavits, thereby disputing the stand of the respondents. Before adjudicating upon the present controversy it is imperative to reproduce the material dates as per the tender notification and the significance thereof as stated by the respondents :-

S. No.	Critical Date	Time	Purpose	Significance
1.	28.02.2020	1700 Hrs	Document download/ sale of tender document starts	The document cannot be downloaded before this date beside the fact that the tender is created/ published successfully on the portal before 1700 Hrs.
2.	29.02.2020	1400 Hrs	Bid Submission starts	Bid submission starts only after 29.02.2020 at 1400 hrs beside the fact that tender is created and downloading of documents starts on 28.02.2020.
3.	10.03.2020	1600 Hrs	Documents download/ sale of tender document/ Bid submission Ends	The portal shall not permit in any circumstance to download and bid after the expiry of this date and time.
4.	10.03.2020	1500 Hrs	Last date for receiving the hard copies of EMD and Challan i.e. two documents in original only.	This is offline mode where under the copies of EMD and Challan were allowed to be submitted as hard copies in original.
5.	12.03.2020	1200 Hrs	Bid opening Date & Time	Bid cannot be opened before this date & time. Now the tender can be opened any time by the committee as the suitability of the date and time after the expiry of schedule mentioned.

EMG-WP(C) No. 2/2020

(Laxshmi Transport Company Vs UT of J&K and others)

06. The technical bid of the petitioner was rejected on the following grounds, as stated by the respondents :-

S. No.	Qualification Criteria as per tender document which is already annexed with the writ petition as Annexure-III	Documents submitted by the firm (petitioner)	Grounds of rejection
1.	Tender documents as per section IV	No document submitted	Tender document as mentioned in section IV was not uploaded/ submitted by the bidder within stipulated time but were later on e-mailed on 18.04.2020 after the opening of technical bid.
2.	ITR in each of the last 03 financial year for 2016-17, 2017-18, 2018-19	No document submitted	ITR for the period 2016-17, 2017-18, 2018-19 were not uploaded by the firm.
3.	Bidder has at least 30 Vehicles of the required specification of the contract (as per condition No. 9 mentioned in the section IV of qualifying criteria of the tender)	No affidavit or power of attorney submitted	No any affidavit submitted by the bidder or from their associate firm indicating details of the vehicle leased with the firm.
4.	Detail of vehicles submitted (as per condition No. 10 mentioned in the section IV of qualifying criteria of the tender)	Not appropriate (No insurance permit certificate)	Only RCs of the vehicle were submitted while as Insurance/ permit certificates were not submitted by the firm.
5.	Detail of the drivers (Phone numbers / other particulars) submitted (as per condition No. 11 mentioned in the section IV of qualifying criteria of the tender).	No any detail submitted	The firm did not upload any detail of the drivers of the firm.
6.	Service Licence issued by the competent authority (STA) for Handling of transportation job (refer rule 127(2) J&K MV Act 1991	Not appropriate	Registration Service Licence certificate submitted by the bidder/ petitioner is valid only upto 31.03.2020, while as we require to make agreement for the year 2020-21.

	(as per condition No. 14) mentioned in the section IV of qualifying criteria of the tender).		
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07. The petitioner filed supplementary affidavit in which it was stated that objections of the respondents that technical bid was opened on 12.03.2020 is misplaced and contrary to record because in the bid opening summary annexed as Annexure-R placed on record by the Respondents, it is evident that the technical bid was opened on 26.03.2020 at 4.42 p.m. The petitioner also stated that once the technical bid was opened on 26.03.2020, there was no impediment for the respondents to consider the documents submitted by the petitioner through e-mail on 18.03.2020. The petitioner further states that with the extension of last date for opening of technical bids from 12.03.2020 to 26.03.2020, the respondents have also extended the time and date for submission of documents, if any, by the bidders and as such the documents submitted by the petitioner on 18.03.2020 were well submitted in time, therefore, the contention of the respondents that certain documents were not uploaded after the last date is incorrect and contrary to the facts. The petitioner also submitted that online tendering portal requires an online login ID followed with password and digital signature certificate, which is allocated to the registered bidder. The online portal also contains the column of shortfall documents, which will enable the bidder to submit the documents which are deficit. It is also contended that as latest as 27.04.2020, the status of the financial bids is given as “*Opening in Progress.*” The petitioner states that there is no justification by the respondents that if the technical bids were

opened on 12.03.2020 then why till 26.03.2020 status was not updated online or was intimated to the bidders by any mode.

08. In response to the ground a) of the rejection of technical bid, the petitioner states that the tender documents were submitted before the Tender Evaluation Committee firstly on 10.03.2020 and secondly on 18.03.2020 and duly accepted. He further states that with the extension of date of opening bids from 12.03.2020 to 26.03.2020, there is an extension of submission of bids which is of course prior to the opening of financial bids.

09. In response to the ground b) of the rejection of technical bid, the petitioner states that the ITRs of last three financial years were sent by e-mail on 18.03.2020. He also submits that the said requirement was not mentioned in clause 6.

10. In response to the ground c) of the rejection of technical bid, the petitioner submits that he submitted the registration certificates of 34 vehicles along with its bid on 10.03.2020, which was sufficient compliance of clause 2 of qualifying criteria. Subsequently, on 18.03.2020 the affidavits of the owners of the attached vehicles were also submitted along with insurance covers, route permit and fitness certificates. As per the tender document, there was no requirement that an affidavit was to be submitted by the bidder or the owners of the attached vehicle and also there was no condition of submission of power of attorney.

11. In response to the ground d) of the rejection of technical bid, it is contended by the petitioner that insurance and permit documents of the vehicles

were submitted before the Tender Evaluation Committee on 18.03.2020 by e-mail.

12. In reply to ground e) of rejection, the petitioner states that he had submitted the list of drivers along with driving Licences and mobile numbers of all the 34 drivers before the Tender Evaluation Committee on 18.03.2020 by e-mail.

13. Lastly, in reply to ground f) of the rejection, the petitioner submits that the service Licence certificate valid for April, 2020-2021 was submitted before the Tender Evaluation Committee on 18.03.2020 and initially he had submitted the certificate that was valid only up to 31.03.2020.

14. The respondents filed reply in response to the supplementary affidavit filed by the petitioner, in which besides mentioning the crucial dates of e-NIT and significance thereof, it is stated that an auto generated SMS is sent to all the concerned as a reminder that tender technical bids are to be opened on the date mentioned in the tender document vis-à-vis on the portal. The bidder may submit the bid documents through online mode only. It is categorically stated by the respondents that 08 bidders participated in the bidding process. The tender was opened on 12.03.2020 at 12.10 hours by the bid openers authorized during creation and publication of tender. The data / documents were decrypted with login ID and DSC of Sh. Ashok Kumar Sharma, SSP at 12:11 hours and then by Sh. Balwan Singh, AO at 12:14 hours by his login ID and DSC. The opening of technical bid involves two steps i.e. technical bid opening and technical evaluation. In this tender, the technical bid was opened/decrypted on 12.03.2020 at 12:10 hrs and the moment TIA login on the portal

and decrypt the packet sent by the bidder, all the documents are shared among all the participating bidders. Auto generated alerts in the shape of SMS and mail is also sent to all the participating bidders. Thereafter, the documents are saved locally on the computer and all the documents are unzipped, printed, marked with page number, filed bidder-wise and are put before the Committee for scrutiny. It is further stated that the Committee satisfactorily scrutinized the documents and on the basis of their evaluation and assessment, the Committee accepted/ rejected the bids of bidders on the basis provided by them online. The said process was completed manually on 20.03.2020 but due to COVID-19 pandemic, lockdown, holidays and other engagements, the details were not uploaded on JK Tenders portal till 26.03.2020 and the recommendations of the Committee were uploaded on portal by logging and using DSC by Sh. Ashok Kumar, SSP. The financial bids were supposed to be opened on 21.03.2020 but due to the holidays, lockdown, the financial bids were opened on 26.03.2020 at 05:15 hours and the same were updated on the portal on the said date only. It is further stated that as per clause 14 of Section III of the tender document, it is clearly specified that the Department reserves the right to postpone and or extend the date of receipt/ opening of tenders or to withdraw the tender notice without assigning any reason thereof and in such circumstances the bidders shall not be entitled to any form of compensation. So far as, provision for shortfall documents on the online portal is concerned, the same can be exercised in extreme circumstances, where bidders have uploaded documents those were not readable/legible and that too on the discretion of the TIA. The respondents further state that the Tender Committee neither extended the date of submission nor permitted any bidder to use the column of shortfall

documents on online portal. It is clearly stipulated in the tender in clause 16 of section III of the tender document that fax/e-mail offers will be treated as defective/invalid and rejected. It is further stated by the respondents that once the tender submission date is over, no additional documents can be entertained at any cost and further the petitioner chose to file the documents additionally and subsequently by virtue of e-mail clearly establishes the fact that the petitioner was well aware about its own shortcoming which were sought to be cured and rectified by the petitioner subsequently, by submitting the documents through e-mail, a process not admissible as per the conditions governing the e-tendering process. More so, all the other qualified technical bidders had submitted the requisite documents at the time of submission of their bids prior to the closing of tender.

15. I have heard the learned counsel for the parties and I have also perused the documents relied upon by the parties. The original record of the tendering process was also perused by the Court.

16. Before appreciating the rival contention of the parties, it would be appropriate to consider the scope of judicial review in matters pertaining to Tenders and award of Government Contracts. In **Jagdish Mandal v. State of Orissa and Others**, reported in 2007(14) SCC 517, the Apex Court has held that:

"22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made "lawfully" and not to check whether choice or decision is "sound". When the power of judicial review is invoked in

matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted.

17. In *Silppi Construction Contractors v/s Union of India & Anr* reported in **2019 (11) SCALE 592**, the Apex Court has held:

“ The essence of the law laid down in the judgments referred to above is the exercise of restraint and caution; the need for overwhelming public interest to justify judicial intervention in matters of contract involving the state instrumentalities; the courts should give way to the opinion of the experts unless the decision is totally arbitrary or unreasonable; the court does not sit like a court of appeal over the appropriate authority; the court must realise that the authority floating the tender is the best judge of its requirements and, therefore, the court's interference should be minimal. The authority which floats the contract or tender, and has authored the tender documents is the best judge as to how the documents

have to be interpreted. If two interpretations are possible then the interpretation of the author must be accepted. The courts will only interfere to prevent arbitrariness, irrationality, bias, mala fides or perversity.

18. Thus, it is clear that the scope of judicial review is limited and it is only to be seen whether the process adopted by the respondents was irrational, malafide, arbitrary and opposed to public interest so as to warrant interference. The Court while exercising the powers of judicial review is not to critically examine the decision taken by the Tender Inviting Authority but only has to see the reasonableness and fairness of tendering procedure and simultaneously while doing so, it is not supposed to act as a court of Appeal. Now it would be appropriate to test the contentions on the touchstone of principles of law enunciated by Apex Court.

- a) The first contention raised by the petitioner is that the technical bids were not opened on 12.03.2020 but on 26.03.2020 and as such there was no impediment for the respondents to consider the documents furnished by the petitioner to the respondents through e-mail on 18.03.2020. The perusal of record reveals that the technical bids were decrypted on **12.03.2020 at 12.11 p.m. & 12.14 p.m.** by the Decrypted Bid Openers namely, Sh. Ashok Kumar & Sh. Balwan Singh respectively and these bids were examined by the Tender Evaluation Committee on 20.03.2020 but due to COVID-19 pandemic, lockdown & holidays, the result was updated on 26.03.2020 at 04.42 p.m. in case of petitioner. Bid Opening summary annexed as Annexure-R by the respondents clearly establish the decrypted

date as 12.03.2020 and mere mentioning of opened date as 26.03.2020 on the bid opening summary is of no consequence, as it reveals the status was updated on 26.03.2020. The said fact is further substantiated by the record as the perusal of the same reveals that the technical bids were examined on 20.03.2020 by the concerned Committee, though the status was updated on 26.03.2020. The petitioner was under obligation to submit its bid along with the requisite documents on 10.03.2020 and thereafter no document could have been entertained by the respondents. The respondents had already opened the technical bid on 12.03.2020 and furnishing of documents subsequently through e-mail by the petitioner was inconsequential. More so, clause 16 of section III regarding Procedure for Bid Submission & Evaluation, it is categorically prescribed that “*facts/e-mail offers will be treated as defective, invalid and rejected.*” So the first contention of the petitioner is bereft of any merit. The petitioner, even otherwise cannot claim any benefit with regard to the aberrations in the procedure (if any) of tendering process, as has been held by the Apex Court in Jagdish Mandal case.

- b) The second contention pertains to the online portal having a provision for shortfall documents. The petitioner has not been able to establish as to how the said provision can come to its rescue for submitting the deficient documents subsequently through fax/e-mail. On the contrary, the respondents have

categorically stated that the said provision can be exercised in extreme circumstances and that too on the discretion of the tendering authority and the Tender Committee has never permitted any bidder to use the column of shortfall documents. Assuming for the sake of arguments, the said option was available to the petitioner but still it could not have submitted the deficient documents on 18-3-2020 after the technical bids were opened 12-3-2020.

- c) The third contention raised by the petitioner is that the online portal as on 27.04.2020 is still showing the status of financial bid opening as "*Opening in Progress*" is itself belied by the averments made in para 4 of the supplementary affidavit that financial bids were opened on 26.03.2020 at 05.11 p.m. As such, even if the portal is displaying the status as stated above, it will not make any difference since from the record it is evident that the financial bids were opened on 26.03.2020.
- d) The fourth contention of the petitioner is that the tender documents were submitted within the stipulated time, as such, the respondents could not have rejected the same is also misconceived, as the petitioner on its own has assumed that the respondents had extended the date of opening of technical bids from 12.03.2020 to 26.03.2020. The documents submitted after the cut-off could not have been considered by the Respondents.

- e) The fifth contention of the petitioner is that the requirement of furnishing of ITRs for the last three financial years was not mentioned in clause 6 of section IV. The respondents stated that all the other qualified bidders had submitted the same and if the same was not mandatory, then how the petitioner submitted the same through e-mail on 18.03.2020. The purpose of submitting ITRs was to compare the balance sheets and profit and loss accounts submitted by the bidder with the information contained in ITRs. ITRs for the last three financial years submitted by the petitioner after the cut-off date are inconsequential and rightly not considered by the respondents.
- f) The sixth contention that the petitioner submitted the details of all the 34 numbers of vehicles in technical bid along with necessary documents on 18.03.2020 is also not sustainable, as the same having been submitted after the cut-off date. More so, the respondents are right in stating that in absence of affidavit of owner/lease agreement/ power of Attorney it is not possible to come to conclusion as to whether the vehicle is on lease/ rent with bidder or not. In fact, the petitioner is misinterpreting the terms and conditions of e-NIT. It is for the TIA to determine as to the necessity of a particular document and the bidder cannot dictate the TIA to interpret a particular condition in a manner suitable to him.
- g) The other contentions that the petitioner submitted insurance/permit certificates of the vehicles, the list of 34

drivers along with mobile numbers and renewed service Licence on 18.03.2020 through e-mail deserve to be rejected for similar reasons mentioned above. The petitioner is absolutely silent as to how the petitioner came to know about the deficiency of documents, those were submitted by the petitioner on 18-3-2020 when all other successful bidders had submitted all the documents at the time of submission of online bids.

EMG-WP(C) No. 2/2020

(Swaran Singh –Associate Carriers Vs UT of J&K and others)

19. The technical bid of the petitioner was rejected on the following grounds:-

S. No.	Qualification Criteria as per tender document which is already annexed with the reply as Annexure-R	Documents submitted by the firm (petitioner)	Grounds of rejection
1.	Detail of the drivers (Phone numbers/ other particulars) submitted (as per condition No. 11 mentioned in the section IV of qualifying criteria of the tender)	Document submitted not as per the criteria	The firm has submitted list of the individual indicating them as drivers with their phone Nos. without their driving licence photocopies/Nos., as such the same was rejected accordingly.
2.	Bidder has at least 30 Vehicles of the required specification of the contract (as per condition No. 9 mentioned in the Section IV of qualifying criteria of the tender)	No affidavit or power of attorney submitted	Affidavit submitted by the firm is not appropriate as the affidavit submitted by him showing the details of the vehicle leased to him which should be sworn by the owner of others firms/ owners declaring lease/agreement with the Associate carriers for the period and thus the same does not fulfill the criteria as per the tender document.
3.	Experience certificate of providing the similar type of vehicles with State Police Department and others (as per	Not appropriate (Only carriage of text books	The firm has submitted experience certificate of Indian Oil for transporting oil services besides, experience of transportation of text books has

	condition No. 13 mentioned in the section-IV of qualifying criteria of the tender)	and oil)	also been submitted by the firm. Both the experience certificates are not sufficient as per our purpose of hiring of vehicles is to transporting of troops and equipments and the firm lacks experience of Passenger commercial vehicle.
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20. The petitioner has filed supplementary affidavit in which the petitioner has taken similar grounds as taken by the petitioner in the writ petition bearing EMG-WP(C) No. 2/2020 and as such they are not required to be reproduced again. So far as, reasons given for technical bid of the petitioner is concerned, the petitioner has submitted the following reasons/reply to the grounds of rejection of technical bid:

21. In response to ground a) of the rejection of his technical bid, the petitioner submits that requirement of condition 11 was to only to submit names and phone numbers of the drivers without specifying any other particulars. The petitioner has submitted an affidavit specifying the names and mobile numbers of the drivers that was sufficient compliance of condition 11 of qualifying criteria. The petitioner further states that after submission of bid on 10.03.2020, the petitioner was informed by the Department that photocopies of the driving Licences are also required and thus the same were submitted on 18.03.2020 by e-mail.

22. In reply to the ground b) for rejection of his technical bid, the petitioner submits that condition 2 of section I of Scope of Work and Special conditions of Contract, nowhere provided either expressly or implied that in case of leased vehicles, the registered owner of the vehicle has to swear an affidavit specifying the details of the vehicle. The affidavit of the petitioner

clearly provides that the vehicles are leased vehicles. The petitioner also submitted RCs and Insurance Policies of all vehicles, so there was sufficient compliance of all the conditions of tender documents.

23. In reply to the ground c) of rejection of the technical bid of the petitioner, the petitioner submits that the contract in question was not only for supplying of passenger vehicles but for other vehicles as well. The true import of clause 13 of Sec-IV is that the bidder must have experience of providing vehicles to the authorities. Therefore, the petitioner having requisite vehicles i.e., trucks, tankers, load carriers etc has sufficient experience as required under the contract.

24. The respondents in response to the supplementary affidavit filed by the petitioner has filed their reply, that is on same lines as in the earlier writ petition. However, in response to the stand taken by the petitioner so far as rejection of technical bid on ground a) is concerned, the respondents have stated that the petitioner while submitting the affidavit as per condition 11 of section IV of the tender documents, submitted only the names of drivers under title heading of names of vehicles. All other technically qualified bidders submitted the details of their drivers along with the Licence details but the petitioner has misinterpreted the said clause. It is further stated that neither the petitioner nor any other bidder was informed about any shortcoming of documents and as such the bid of the petitioner was liable for rejection. In response to the stand of the petitioner for ground b) of rejection of technical bid, the respondents have stated that the petitioner has misinterpreted the clause 9 of section IV of the tender documents, as all other qualified bidders have submitted their affidavits sworn by second party from whom the vehicles had

been taken on lease/rent. Merely submission of registration certificate along with insurance certificate of the vehicles does not reflect/specify that the vehicles in question are on lease or rent with the petitioner. Moreover, if the petitioner had any query regarding any clause in the documents, he could have easily approached the Tender Committee before the bid submission date i.e. 10.03.2020. In response to the stand of the petitioner for ground c) of rejection of technical bid, the respondents submit that the petitioner has misinterpreted the clause 13 of section IV of tender documents to his own advantage and besides this, qualifying criteria figured at point 1 of section 1 is that the bidder should have annual turnover of 35 lacs at least from operation of passenger commercial vehicle fleet with suitable and adequate documentary proof. But the petitioner has provided experience of oil transportation and stationery/text books only, whereas the main concern is regarding carriage of troops.

25. I have heard the learned counsel for the parties and I have also perused the documents relied upon by the parties. The original record of the tendering process was also perused by the Court.

26. Testing the contentions raised by the petitioner in this writ petition on the touchstone of law laid down by Apex Court as discussed above, it is to be seen whether the petitioner has succeeded so as to warrant interference by the Court.

27. The first contention raised by the petitioner that the petitioner sufficiently complied the condition submitting the details of the Drivers and when the petitioner was informed by the Department that photocopies of the driving Licence are also required and then the same were submitted on

18.03.2020 by e-mail. The respondents have categorically denied that the petitioner was ever informed about the shortcoming. Without furnishing the details of licenses, it was difficult to determine as to whether the Drivers names of whom were furnished by the petitioner were in fact having Driving Licenses or not. More so, the documents having been submitted after the closing date of submission of bids are inconsequential and the petitioner cannot derive any benefit.

28. The 2nd contention that the petitioner had sufficiently complied the tender condition by submitting the details of the Vehicles in his affidavit and there was no condition of submitting the affidavit of the registered owners of the Vehicle, is also misconceived. Mere submitting the details of vehicles and RCs as well as ICs of the same would not establish as to whether the Vehicles in question were on lease/rent as only the Owner of the Vehicle can say that he has given his vehicle on lease/rent to some other person. More so all other successful bidders have submitted the same.

29. The last contention that the Tender was for MUV and the petitioner was having sufficient experience of supplying the Transportation vehicles to various departments. The petitioner having requisite vehicles i.e., trucks, tankers, load carriers etc could not have been ousted from the tendering process. The contention is mis-conceived as the condition 1 of qualifying criteria of Section-I pertaining to Scope of Work and Special Conditions of Contract provided that the bidder should have annual turnover of 35 lacs at least from operation of passenger commercial vehicle fleet with suitable and adequate documentary proof. The petitioner in this case was having experience

of oil transportation and stationery/text books only. The respondents, as such, have rightly rejected the technical bid of the petitioner.

30. All other contentions raised by the petitioner have already been dealt above.

CONCLUSION:

31. In view of what has been stated above, all the contentions raised by the petitioners pertain to private commercial interest of the petitioners. The petitioners have failed to establish as to how the decision of the Committee in rejecting their respective technical bids is arbitrary, irrational and opposed to public interest.

32. Viewed thus, both the writ petitions deserve to be dismissed and are, accordingly, **dismissed** along with connected applications. Interim directions in both the petitions shall stand vacated.

(RAJNESH OSWAL)
JUDGE

Jammu
28.05.2020
(Muneesh)

Whether the order is speaking : YES
Whether the order is reportable : YES