

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH, BHOPAL

Original Application No. 23/2013

Ecological Protection Society, Indore. Vs. State of Chhattisgarh & Others

**QUORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. P.S.RAO, EXPERT MEMBER**

PRESENT : Applicant : Shri S.K. Verma, Advocate
Respondent No. 1& 2: Shri Apoorv Kurup, Advocate

Date and Remarks	Orders of the Tribunal
<p>Item No. 4</p> <p>4th September, 2013</p> <p>Appl. No. 23/2013</p>	<p>Heard the Learned Counsel for the applicant and respondents.</p> <p>The Learned Counsel for respondent filed the application under Sections 14, 15, 16 and 17 of the National Green Tribunal Act, 2010 for seeking the relief of quashing the Request for Proposal (RFP) published on 10.04.2013 filed as Annexure A-1 & A-2 as the terms and conditions of the said RFP being illegal.</p> <p>The matter came up for consideration before the Tribunal on 07.05.2013 and after hearing the Learned Counsel for applicant, taking note of the averments made in the petition and the submissions of the Learned Counsel for the applicant this Tribunal noted in its order as follows :</p> <p><i>“The grievance of the applicant, as submitted by the Learned Counsel, is that, the notice titled ‘Request for Proposal’ issued by the Government of Chhattisgarh indicates that the Bio Medical waste can be kept for 48 hours and for further 48 hours for the purpose of transportation, which according to the applicant, is in violation of the statutory rules. We see some reason in the concerns raised by the Learned Counsel. Having noted the aforesaid contention the Tribunal issue notice to the respondents.”</i></p> <p>The respondents have put in appearance and have submitted their short reply before us. In their reply the respondent, in Para no. 2 has clearly stated as follows :</p> <p><i>“..... It is humbly submitted that the applicant’s interpretation of the relevant (RFP Clause) is wrong. The relevant RFP clause are in full compliance of the Bio-Medical Waste (Management and Handling) Rules, 1998 (hereinafter, the ‘Biomedical Waste Rules, 1998’), as well as the guidelines for common Bio-Medical Waste Treatment facility issued by the Central Pollution Control Board in 2003 (hereinafter, the “CPCB Guidelines, 2003”). <u>It is categorically submitted that the maximum time limit stipulated for collection and</u></i></p>

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transportation of Bio-Medical Waste in the RFP is 48 hours, which is the cap provided in Rule 6(5) of the Bio-Medical Waste Rules, 1998 read with the CPCB Guideline, 2003. The applicant has wrongly and malafidely read the time period mentioned in clause 2.1.2 and clause no 14(xv) of the RFP in the cumulative as 96 hours, when in actuality the clauses pertain to the same time period of 48 hours former contracting party”.

(emphasis supplied)

The Tribunal after hearing the matter on 07.05.2013 also passed an interim order whereby it was directed that the Government shall not issue any work order until further order from the Tribunal, if not already issued. It has been stated before us by the Learned Counsel for the applicant that while the respondents have completed the process and have identified the suitable candidate for award of the contract in terms of the RFP, the contract has not been awarded.

It was submitted by the Learned Counsel for the respondents that even though there is no ambiguity in the notice published inviting the bid with the term and conditions of the RFP, but with a view to clarify and strictly adhere to the rules a clarification in terms of the statement made in the reply in Para no. 2 quoted herein above would be issued. Though it is submitted that the aforesaid position is well known to the parties who have submitted their bids in terms of the RFP that the total time limit and the cap was of 48 hours both inclusive of collection and transportation and not separately for 48 hours each as was sought to be contended before us and stated in the petition, on the basis of the interpretation given to Para 2.1.2 read with Para no. 14 (xiv) & (xv) of the notice annexed as A-2.

We are satisfied that in case such a clarification is issued in consonance with the rules no grievance survives and the contractor would not be in a position to contend otherwise. We would therefore also direct that while issuing the said clarificatory notice on the one side the respondents shall also specify the said time limits of 48 hours as per rules in the terms of the licence to be awarded.

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The Learned Counsel appearing for the respondents would submit that

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necessary clarification by way of notification shall be issued and published by the respondents as indicated in their reply within a week from today. On publication of the notification, the same shall be filed before the Tribunal in compliance of the above.

In view of the above clarification and stand of the respondents, we find no reason to interfere and dispose of this petition with a direction to the respondents that on publication of the aforesaid clarificatory notification, the same shall be filed before the Tribunal within a week therefrom with a copy to the petitioner applicant.

We may add that an M.A. No. 39/2013 has also been filed by the applicant for carrying out typographical correction in the petition. The prayer made is allowed and disposed of.

Another application has been filed by the applicant u/s 157 CPC not to entertain the 'short' reply submitted by the respondents as there is no provision for the same in the rules of procedure of the N.G.T. The said application has been registered as M.A. No. 41/2013.

We have heard Learned Counsel and considered the submission made on the basis of the objections raised to the 'short' reply of the respondents.

We are of the view that looking to the short controversy as noticed by us in our order dated 07.05.2013 quoted above the matter did not require an elaborate reply to the entire petition. As such the response made in Para 2 of the short reply was sufficient to decide the controversy.

In that view of the matter, as the facts and circumstances of this case the M.A. No. 41/2013 submitted by the applicant does not merit consideration and is accordingly rejected.

Accordingly the Miscellaneous Application No. 39/2013 and Miscellaneous Application No. 41/2013 are disposed of as indicated above. The Original Application No. 23/2013 also stands disposed of with the directions contained herein.

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The matter be listed to seeing compliance on 16.09.2013.

.....,JM
(DALIP SINGH)

.....,EM
(P.S.RAO)

