

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1095 OF 2015

(Arising from SLP(C) No.36400/2011)

State of Orissa and others ..Appellants

versus

M/s Haraparbati Construction and another ..Respondents

O R D E R

Leave granted.

We have heard learned counsel for the rival parties, and perused the tender conditions, especially the conditions expressed in paragraph 4A(b) thereof.

Despite having given ample opportunity, respondent No.1 has not been able to establish from the material placed before the authorities, that the conditions expressed in paragraph 4A(b) stood fulfilled by respondent No.1.

In the above view of the matter, we are satisfied, that respondent No.1 did not satisfy the conditions of the tender, and as such, could not have been considered for the award of the tender. The High Court clearly erred in recording the conclusion based on Annexures A-3, B/3 and C/3, which have been relied upon by the State of Orissa, that respondent No.1 fulfilled the tender conditions expressed in paragraph 4A(b).

Having permitted respondent No.1 to place the material available with it on the record of this case, we affirm that

respondent no.1 was ineligible for consideration for the award of the tender under reference. Thus viewed, the impugned order is liable to be set aside, and the same is hereby set aside.

The instant appeal is accordingly allowed.

.....J.
[JAGDISH SINGH KHEHAR]

NEW DELHI;
JANUARY 16,2015.

.....J.
[S.A. BOBDE]

ITEM NO.2

COURT NO.5

SECTION XIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 36400/2011

(From the judgment and order dated 2.8.2010 in Writ Petition(C) No. 3457 of 2010 passed by the HIGH COURT OF ORISSA AT CUTTACK)

STATE OF ORISSA & ORS.

Petitioner(s)

VERSUS

M/S HARAPARBATI CONSTRUCTION & ANR Respondent(s)
(with appln. (s) for c/delay in filing SLP and c/delay in
refiling SLP and intervention and interim relief and office
report)

WITH

SLP(C) No. 3577/2012

(With appln.(s) for c/delay in filing SLP and appln.(s) for
c/delay in refiling SLP and Office Report)

Date : 16/01/2015 These petitions were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Mr. Ashok Panigrahi, Adv.
Ms. Ashmi Mohan, Adv.
Mr. Santosh Kumar, Adv.

For Respondent(s) Mr. Umesh Chandra Mohanty, Adv.
Mr. Kumar Gaurav, Adv.
Mr. P.K. Pattanaik, Adv.
for Mr. Rameshwar Prasad Goyal, AOR(NP)

Mr. S. R. Setia, Adv.

Mr. Anirudh Sangneria, Adv.
for Mr. Mukul Kumar, AOR(NP)

UPON hearing the counsel the Court made the following
O R D E R

S.L.P. (C) No.36400 of 2011

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed order.

All pending interlocutory applications are disposed of.

S.L.P. (C) No.3577 of 2012

Learned counsel for the respondent seeks further time, so as to enable him to place material on the record of this case depicting that the respondent fulfilled in one year the conditions prescribed under paragraph 4A(b), namely, Cement concrete - 210.65 Cum., Earthwork - 360660.00 Cum. and R.R.stone packing - 1274.72 Cum. required for eligibility.

Prayer is allowed.

Needful be done within three weeks. List thereafter.

Learned counsel for the respondent contends, that he would establish the eligibility of the respondent with reference to the year 2008-09.

(Parveen Kr. Chawla)
Court Master

(Renuka Sadana)
Court Master

(signed order is placed on the file]