

ITEM NO.8

COURT NO.9

SECTION IVA

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 (Civil) No(s).27054/2011  
(From the judgement and order dated 04/05/2011 in WP No.3620/2011  
of The HIGH COURT OF M.P AT INDORE)

DROPEX (INDIA) TAR PRODUCT P.LTD.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer  
for interim relief and office report )

Date: 16/01/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY  
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Petitioner(s) Mr. Nirmal, Adv.  
Mr. Ardhendumauli Kumar Prasad, Adv.

For Respondent(s) Mr. Mohan Jain, ASG  
Mr. Atul Nanda, Sr. Adv.  
Mr. Prabhat Kumar, Adv.  
Mr. A.K. Srivastava, Adv.  
Ms. Jaspreet Aulakh, Adv.  
Ms. Sushma Suri, Adv.

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

Heard learned counsel for the parties.

This matter questions the eligibility criteria of  
the petitioner seeking grant of his tender. Pursuant to  
our previous orders, affidavits have been filed by the  
parties. It appears from the record that pursuant to  
the Notice Inviting Tender, the petitioner herein put

2

in their tender papers for the grant of work of water  
proofing of leakage/seepage of buildings, roofs, walls/  
toilets of all the administrative and residential  
buildings under the Secondary Education Division,  
Madhya Pradesh, Bhopal.

One of the conditions imposed in the said tender  
notice was that the tender will be issued to the  
specialized contractors/firms dealing in the field of

carrying out water proofing treatment and having required experience of having satisfactorily completed at least three similar works each of value not less than Rs.70 lakh or two similar works each of value not less than Rs.90 lakh or one similar work of value not less than Rs.140 lakh in last seven years ending last day of the month previous to the one in which the tenders were invited. Scanned copy of the work experience was required to be uploaded, provided they produce the definite proof from appropriate authority. By 'similar works' was meant work carrying out water proofing treatment of roofs with membrane/tarfelt.

The authorities while examining the tender papers put in by the petitioner firm found that the particulars which have been furnished by the petitioner firm about the work experience was not matching with the required specifications under the Notice Inviting

3

Tender and as such they did not accept the tender of the petitioner firm.

Challenging the same, the petitioner firm preferred writ petition before the High Court which came to be dismissed and ultimately the matter reached this Court. We had issued notice on 16th September, 2011. Counter and rejoinder affidavits have been filed by the parties.

Learned counsel for the petitioner contends that the petitioner's claim for experience of conducting waterproofing work under one agreement with the Madhya Pradesh Board of Secondary Education, Bhopal was for a total amount of Rs.1,63,85,332/- which was not considered by the respondents. Learned counsel for the petitioner has showed us the document in support thereof vide Annexure P-4.

However, the respondents being not satisfied with

the papers showing aforesaid work experience of the petitioner, demanded vide Annexure P-5 the petitioner to disclose further details in support of the claim of experience. Admittedly, the petitioner firm did not submit any document to the respondents.

It is not in dispute that ultimately the tender has not been allotted to the petitioner Company.

In view of the aforesaid situation, we direct the

4

petitioner Company to furnish a detailed reply to the respondents on the queries raised by them vide Annexure P-5.

We, therefore, give the petitioner Company another opportunity for furnishing a reply to the satisfaction of the respondents within a period of two weeks from today and the respondent authorities are directed to examine the reply to be furnished by the petitioner firm and thereafter take a final decision within four weeks thereafter on whether to allot the work to the petitioner firm or not.

We understand that the tender has not been allotted to any one so far.

The special leave petition is accordingly disposed of.

No costs.

(G. SUDHAKARA RAO)  
COURT MASTER

(J.P. SHARMA)  
COURT MASTER