

Munindra Nath Upadhyaya

Vs

State of U. P. and Others

Civil Appeal No. 4481 of 1991

(M. N. Venkatachaliah, K. Ramaswamy, JJ)

11.11.1991

ORDER

1. We have heard learned counsel for both sides. Special leave granted.
2. Prithvi Raj Singh, respondent 3 in this appeal, claiming to be the highest bidder at an auction held on July 31, 1990 respecting the disposal of the right to collect toll on the bridge 'Sanjay Setu' over Betwa River at Hamirpur, U.P., sought a mandamus to the authorities to accept his bid and to award the privilege of collecting toll in his favour. The High Court has referred to the manner in which the authorities dealt with respondent 3 which, according to the High Court, was not proper. The High Court also came to the conclusion that preferment of appellant in place of respondent 3 was also not justified. In regard to these matters there is hardly anything that can be said in support of the present appeal.
3. However, Sri R. N. Narasimhamurthy, learned senior counsel for the appellant sought to point out that the form of the mandamus ignores the fact that that a person has offered the highest bid is not conclusive as to his entitlement to be awarded the privilege and that other conditions, such as the requirement of "status certificate", solvency etc., also require to be satisfied. The mandamus in the form issued, counsel says, would debar the authorities from these inquiries and compel them to award the privilege without the satisfaction of these necessary conditions. Learned counsel also urged that government was not bound to accept any bid at all and could decline, for good reason, to accept even the highest bid.
4. The direction issued by the High Court is in this form :

"In the circumstances now there is no impediment in implementing the auction which was held on July 31, 1990. The petition is accordingly allowed. The order of the Commissioner, Jhansi Division Jhansi passed by Sri Girdhar Gopal dated June 7, 1991 is hereby quashed. A writ of mandamus is issued to the Commissioner, Jhansi Division, Jhansi to accept the bid of the petitioner being highest and award contract to the petitioner forthwith in respect of the auction which was held on July 31, 1990."
5. It appears to us that a direction for the acceptance of the bid and award of the contract without the satisfaction of other requisite and relevant conditions may not be appropriate. Government should have the liberty to decide the matter in the light of all considerations relevant to the matter. The High Court is right in its direction to the government to treat respondent 3 as the highest bidder. But in proceeding on that basis government must be at liberty to deal with the matter in the light of the other conditions applicable to the matter. Therefore the form in which the direction is couched

requires to be modified appropriately. While the authorities are directed to accept respondent 3 as the highest bidder, it would be open to them to decide whether they would, in the circumstances, accept the highest bid as adequate and to ensure compliance with other applicable conditions.

6. The order of the High Court is modified accordingly. In all other respects the findings of the High Court are left undisturbed.

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