

LOKPAL OF INDIA
Plot No - 6, Vasant Kunj Institutional Area - Phase II
New Delhi - 110070.

Complaint No. : 86/2023

Date : 11th July, 2023.

Coram : **Smt. Justice Abhilasha Kumari**
Judicial Member

Shri Dinesh Kumar Jain
Member

Shri Mahender Singh
Member

ORDER

The complaint is directed against 9 (nine) public servants serving in the Paradip Port Trust (PPT). The allegations made pertain to two tenders invited by the Administrative Department of the Paradip Port Authority (PPA), which were awarded to the complainant, who was given contracts for:

- (a) Providing assistance to regular employees in receipt/dispatch of letters/files, distribution of Daks, operating computers etc. in various departments/divisions and operational areas of PPT.
- (b) Providing secretarial and other assistance for official works of the Administrative Department.

2. The complainant has alleged that the public servants named have fraudulently deprived him of the aforesaid contract for two works, causing a huge financial loss to him. It is stated that this was done by citing the submission of a wrong document by his organization (relating to quantum of execution of works, executed



for determining eligibility) at the time of submission of tender bids. These work orders were terminated in May, 2018, on the basis of the document in question that was not relevant for determining his eligibility and was already on record prior to the contracts being awarded to him.

3. The complainant has also ventilated further grievances relating to (i) withholding payments due to his organization for work/services rendered; (ii) refundable security deposit; (iii) EMD; (iv) processing of tender papers, etc. According to the complainant, the PPT has violated several provisions of the Factories Act, 1948, and the Industrial Disputes Act, 1947, as well as the guidelines/policies relating to Micro, Small and Medium Enterprises (MSME).

4. The complaint was considered by the Full Bench of the Lokpal of India on 19th April, 2023. By an order of that date, the Full Bench called for a Status Report from the PPT, through the Central Vigilance Commission (CVC), on or before 7th June, 2023.

The CVC has submitted the Status Report received from the CVO, PPA, vide letter dated 06th June, 2023.

5. We have perused the said Status Report and the attached documents, minutely. It emerges from the report that three bidders (including the complainant) participated in the tender process. Two were technically disqualified and the complainant was awarded the work contracts. Work orders were issued in favour of the complainant dated 02.01.2018, to commence works w.e.f. 01.01.2018, for a period of two years. However, one of the unsuccessful bidders lodged a complaint before the Chairman,



PPT, on 06.11.2017, alleging, *inter-alia*, submission of fake documents by the complainant to meet the eligibility criteria of the tender. A show cause notice was issued to the complainant in this regard, to show cause why the two contracts awarded to him ought not to be terminated. The complainant furnished his explanation vide letter dated 30.04.2018, stating that he possessed the eligibility for the award of the contracts and, as such, there was no requirement of up-loading any document in question for this purpose. That, the document in question was uploaded inadvertently through overnight, by a professional engaged by him, which he regretted. The complainant further stated that there was no deficiency in his work and the document had no bearing upon the ongoing work being executed by him.

6. The explanation of the complainant was found to be unsatisfactory. Accordingly, the PPT issued a termination order for both work contracts with forfeiture of the EMD. Further, an amount of Rs. 20,79,712/- was withheld from the running bill of the contractor towards EMD and an amount of Rs. 25,74,464/- towards Initial Security Deposit/Security Deposit (ISD/SD) was withheld for violation of clause 19 of the Tender conditions and Clause 14 of the Work Order.

7. It is noteworthy that the complainant had filed writ petitions being W.P. (C) No. 9055 and 9064 of 2018 in the Hon'ble High Court of Orissa, challenging the termination letter dated 17.05.2018 of the PPT and the Tender Call Notice dated 17.05.2018, inviting fresh quotations for the same works. These



petitions were dismissed by the Hon'ble High Court of Orissa on 25.02.2019, by stating that:

"....In view of the forged or fake experience certificate, naturally the petitioner would not have been eligible. In that view of the matter, we see no reason to interfere with the matter merely because personal hearing is not given. As such, the petitioner has made out no ground for interference in the impugned order.

In that view of the matter, the writ petition being devoid of any merit deserves to be dismissed and accordingly the same is dismissed".

8. After discussing the allegations and the sequence of events in light of the relevant material on record, the conclusion arrived at in the Status Report is to the effect that, the action of the Administrative Department of the PPT was found to be in compliance with the extant norms. The complainant was found to have violated the conditions of the contract, for which appropriate action was taken against him by terminating contracts awarded to him.

9. Further, it is stated that investigation revealed that none of the PPT officials involved with work related to the tender, had indulged in any corrupt practices, abused their official positions or favoured any party. The action taken against the complaint was, therefore, within the scope and ambit of the tender conditions and the regulations and instructions of the PPT.

10. The Status Report details six systemic changes recommended to the PPT. No procedural lapse was found to have occurred in tendering, executing and terminating the said contracts. Further,



even the Writ Petitions filed before the Hon'ble High Court of Orissa by the complainant in this regard, were dismissed as being devoid of merit. It is concluded that false documents had been submitted by the complainant along with the bid documents, with the ill intention that they may be accepted by the PPT and the tender awarded to him. The explanation of the complainant was found to be unsatisfactory. The systemic improvements recommended by the CVO mostly pertain to prevention of tampering of documents, digital signatures and other measures to prevent the submission of fake documents by the bidders.

11. Having perused the Status Report and considered its contents, we find that in the present complaint, the complainant has not disclosed the fact that two Writ Petitions had been filed by him before the Hon'ble High Court of Orissa, pertaining to the very subject-matter of this complainant before the Lokpal of India, and both stood dismissed. We are constrained to observe that withholding of such relevant material fact of prior adjudication by the complainant, is deprecated. As the Hon'ble High Court of Orissa has already adjudicated upon the matter, the Lokpal of India would not interfere, especially when no case for corruption is made out by the complainant.

12. In the complaint, the complainant has not levelled any specific charges of corruption against any specific public servant. He has merely stated that the unsuccessful bidder was the 'favourite' of the concerned officers who were 'hand in gloves', and that he had suffered financial loss as a result of the arbitrary decisions of some corrupt officers. The complainant has not



produced even an iota of evidence in support of such allegations, leave alone regarding corruption or corrupt practices. In short, the complaint falls short of the requirements that form the mandate of the Lokpal of India, as enunciated in the Lokpal and Lokayuktas Act, 2013.

13. It is apparent that the grievance of the complainant has arisen from the termination of the work contracts awarded to the complainant, which aspect has been upheld by the Hon'ble High Court of Orissa.

14. In the above facts and circumstances of the case and for the aforesaid reasons, we do not find any merit in the complaint and, therefore, decline to pass any further orders, as prayed for.

15. Accordingly, the complaint is closed and disposed of.


COURT MASTER,
LOKPAL OF INDIA.