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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2809 of 2026

1 - M/s Agrawal Stone Crushing Company Through- its Partner Gopal Agrawal, S/o Shri Shubhash Chandra Agrawal, Aged About 35 Years, R/o T.P. Nagar, Korba District- Korba (C.G.)

... Petitioner

versus

1 - State of Chhattisgarh Through- Secretary Department of Urban Administration and Development Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District- Raipur (Chhattisgarh)

2 - Municipal Corporation Korba, Through Commissioner, Municipal Corporation, Korba, Saket Bhawan , ITI Chowk, Korba, District- Korba (Chhattisgarh)

3 - Commissioner, Municipal Corporation, Korba, Saket Bhawan, ITI Chowk Korba, District- Korba (Chhattisgarh)

4 - Umesh Rathore S/o Shri Santosh Rathore, Aged About 30 Years, R/o Mahaveer Nagar, Korba, District- Korba (C.G.)

5 - Assistant Engineer, Municipal Corporation, Korba, District- Korba Chhattisgarh.

6 - Executive Engineer, Municipal Corporation, Korba, District Korba Chhattisgarh

**7 - Superintending Engineer, Municipal Corporation, Korba District-
Korba Chhattisgarh**

... Respondents

(Cause title taken from Case Information System)

For Petitioner	:	Mr. Prince Agrawal, Advocate
For Respondent No.1/State	:	Mr. Prasun Bhaduri, Deputy Advocate General.
For Respondents No. 2, 3 and 5 to 7	:	Mr. H.B.Agrawal, Senior Advocate with Mr. Pankaj Agrawal, Advocate.
For Respondent No.4	:	Mr. Vikram Sharma, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

06-07-2026

1. The petitioner by way of present petition under Article 226 of the Constitution of India prays for following relief(s):-

- “i. That, the Hon'ble Court may kindly be pleased to allow the present Writ Petition filed under Article 226 of the Constitution of India.s
- ii. That, the Hon'ble Court may kindly be pleased to issue an appropriate writ, order or direction quashing and setting aside the impugned action/decision of the respondent authorities whereby the technical bid of the petitioner has been rejected in connection with the impugned tender process through SMS (Annexure P/1).

- iii. Issue an appropriate writ, order or direction quashing and setting aside the checklist/technical evaluation record annexed as Annexure P/11, to the extent it records and relies upon the alleged ground of disqualification of the petitioner, being arbitrary, unreasonable, contrary to the tender conditions.
- iv. Issue an appropriate writ, order or direction quashing and setting aside the Agreement dated 20.05.2026 executed between the respondent authorities and private respondent Umesh Rathore, annexed as Annexure P/12, the same having been executed pursuant to an illegal and vitiated tender evaluation process.
- v. Issue an appropriate writ, order or direction quashing and setting aside the Work Order dated 22.05.2026 issued in favour of private respondent Umesh Rathore, annexed as Annexure P/13, being a consequential action arising out of an arbitrary and unlawful declaration of eligibility and award of contract.
- vi. Issue an appropriate writ, order or direction quashing and setting aside the action of the respondent authorities whereby private respondent Umesh Rathore has been declared technically qualified and subsequently declared successful in the impugned tender process, on the basis of the documents contained in Annexure P/8, as the same are contrary to the mandatory eligibility conditions prescribed under the Notice Inviting Tender and thereafter impugned financial bid evaluation (Annexure P/6) may also be set-aside.
- vii. Issue an appropriate writ, order or direction holding that the bank solvency document relied upon by Umesh Rathore and annexed as Annexure P/10 is not in

conformity with the mandatory conditions of the tender document, inasmuch as the said document pertains to a different firm/entity than the entity which participated in the tender process.

- viii. Issue an appropriate writ, order or direction quashing and setting aside the communication dated 25.05.2026 issued by the Superintending Engineer, Municipal Corporation, Korba, annexed as Annexure P/14, being arbitrary, biased and reflective of a predetermined attempt to justify the selection of private respondent Umesh Rathore.
 - ix. Issue an appropriate writ, order or direction directing the respondent authorities to undertake a fresh and independent evaluation of the technical bids strictly in accordance with the terms and conditions of the Notice Inviting Tender, after excluding all documents and claims.
 - x. Award costs of the present petition in favour of the petitioner;
 - xi. Any other relief, which this Hon'ble court deems, fit in the facts and circumstances may also be granted in favour of the petitioner.”
2. The facts as mentioned in the present petition are that the petitioner is a registered contractor engaged in civil construction works and was fully eligible to participate in the tender floated by respondent No. 2 for the construction of an RCC Nalla from Balco Cooling Tower to Dhengur Nalla at Ward No. 39, Balco Zone. The petitioner submitted his bid along with all requisite documents and certificates within the prescribed time. However, during the

technical evaluation stage, his bid was rejected without assigning any reasons, and he was merely informed through an SMS. Despite repeated representations seeking disclosure of the grounds for rejection and an opportunity to clarify any alleged deficiencies, the respondent authorities failed to furnish any written explanation and proceeded to open the financial bids. Subsequently, respondent No. 4 was declared the successful (L-1) bidder. The petitioner contends that he had duly satisfied the eligibility criteria, including the requirement of completion of similar works exceeding 50% of the probable contract value, and that the rejection of his bid without reasons or opportunity of clarification is arbitrary, violative of the principles of natural justice, and intended to confer undue favour upon respondent No. 4. Upon examining the tender documents uploaded on the procurement portal, the petitioner discovered that respondent No. 4 had allegedly been declared technically qualified despite not fulfilling the mandatory eligibility conditions. According to the petitioner, respondent No. 4 furnished misleading and incorrect information regarding the value of similar work by applying an incorrect escalation factor, relied upon documents belonging to two separate firms, namely "Umesh Rathore" and "M/s Umesh Rathore," and submitted a bank solvency certificate pertaining to an entity different from the bidding firm, all in violation of the tender conditions. Aggrieved by these actions, the petitioner initially filed WPC No. 2739 of 2026 challenging the rejection of

his bid and the selection of respondent No. 4. During the proceedings, the respondents disclosed, for the first time, a technical evaluation checklist stating that the petitioner's experience certificate related to a boundary wall rather than an RCC Nalla/RCC retaining wall/RCC culvert. The petitioner asserts that this reasoning is contrary to the tender conditions, as his experience certificate demonstrated execution of similar work satisfying the prescribed criteria. The petitioner further came to know that the agreement and work order had already been issued in favour of respondent No. 4 and that the respondent authorities had undertaken post-tender verification in a manner allegedly favouring respondent No. 4. In light of these subsequent developments, the earlier writ petition was withdrawn with liberty to file a fresh petition challenging the entire tender process, which the petitioner alleges is arbitrary, discriminatory, mala fide, and violative of Articles 14 and 19(1)(g) of the Constitution of India.

3. Learned counsel for the petitioner has submitted that the impugned action of the respondent authorities in rejecting the petitioner's technical bid is ex facie arbitrary, unreasonable, and violative of the principles of fairness, transparency, and natural justice governing public procurement. It has been argued that the petitioner had fulfilled all the eligibility conditions prescribed under the Notice Inviting Tender (NIT) and had submitted all requisite documents, including proof of execution of similar works, yet his

bid was rejected without assigning any reasons or issuing any speaking order or deficiency communication. Even after repeated representations, the respondents failed to disclose the basis of disqualification and proceeded to open the financial bids, thereby depriving the petitioner of any opportunity to clarify or rectify the alleged deficiencies. Learned counsel further contended that the subsequent checklist produced by the respondents during the earlier writ proceedings disclosed, for the first time, that the petitioner's experience certificate was rejected on the ground that it pertained to an RCC boundary wall instead of an RCC Nalla/RCC retaining wall/RCC culvert. According to the petitioner, this reasoning is contrary to the tender conditions, which merely required experience of "similar work" and not an identical work. It was further submitted that the petitioner had quoted 20.5% below the estimated cost, which was lower than respondent No. 4's bid of 16.55% below, and but for the arbitrary technical disqualification, the petitioner would have been entitled to consideration for award of the contract. Learned counsel further contended that respondent No. 4 was illegally declared technically qualified and subsequently awarded the contract despite being ineligible under the mandatory terms of the NIT. It has been argued that respondent No. 4 furnished false and misleading information regarding the valuation of similar work by applying an incorrect escalation factor, thereby inflating the value of the qualifying work and wrongly satisfying the eligibility criteria.

Learned counsel also submitted that respondent No. 4 relied upon documents belonging to two distinct entities, namely "Umesh Rathore" and "M/s Umesh Rathore," including a bank solvency certificate issued in the name of a different entity from the bidder, which rendered the bid non-responsive under the tender conditions. Despite these patent discrepancies, the respondent authorities ignored the mandatory requirements of the NIT, acted with gross non-application of mind, and extended undue favour to respondent No. 4. It has been further argued that the execution of the agreement, issuance of the work order during the pendency of the dispute, and the subsequent verification process undertaken by the respondents amounted to post facto justification of an already predetermined decision. The entire tender process, therefore, stood vitiated by arbitrariness, favouritism, mala fides, procedural impropriety, and violation of Article 14 of the Constitution of India, warranting interference by the Court in exercise of its writ jurisdiction.

4. Learned counsel appearing for respondents No.2, 3 and 5 to 7 has submitted that the writ petition is devoid of merit. Learned counsel further submitted that the tender process was conducted strictly in accordance with the terms and conditions of the Notice Inviting Tender (NIT). It has been contended that upon scrutiny of Envelope 'A', both the petitioner and respondent No. 4 were found compliant, whereafter Envelope 'B' was opened for technical

evaluation. During scrutiny of the petitioner's technical bid, it was found that the experience certificate submitted by him did not satisfy the prescribed eligibility criteria under the tender conditions, and accordingly his bid was rightly rejected. Since respondent No. 4 alone fulfilled the requisite conditions, he was declared technically qualified, following which the work order was issued and the agreement was executed, and the work has since commenced. It has been further submitted that the Superintending Engineer had also sought verification of the solvency certificate submitted by respondent No. 4 from the concerned bank, and the bank duly confirmed its authenticity. Therefore, the respondents contended that the petitioner's grievance regarding the solvency certificate stood fully addressed, no illegality or arbitrariness had been committed by the authorities, and the writ petition, being devoid of merit, deserved to be dismissed.

5. Learned counsel for Respondent No. 4 has submitted that the present writ petition is wholly misconceived, devoid of merit, and liable to be dismissed. The petitioner, having been rightly disqualified in the technical evaluation for failure to satisfy the prescribed eligibility criteria relating to similar works, has unsuccessfully sought to challenge the valid selection of Respondent No. 4 as the L-1 bidder. Respondent No. 4 is a duly eligible Class-B contractor who fulfilled all conditions of the tender,

including submission of the prescribed EMD, valid bank solvency certificate, turnover and pre-qualification documents, and proof of execution of similar works in strict conformity with the tender conditions. The allegation that the solvency certificate pertained to a different entity is factually incorrect, as the use of the prefix "M/s" by the bank does not alter the respondent's proprietorship status, a fact subsequently verified by the issuing bank itself. Likewise, the allegation regarding incorrect application of the multiplier factor is misconceived, as the indexation was carried out strictly in accordance with the tender conditions. Upon due scrutiny, Respondent No. 4 was rightly declared the successful L-1 bidder, the agreement was executed, the work order was issued, and execution of the work has already commenced. The petitioner has suppressed material facts and misconstrued the documents submitted by Respondent No. 4 in an attempt to challenge a lawful tender process. Accordingly, the writ petition deserves to be dismissed.

6. Responding to the submissions made by learned counsel for the respondents No.2 to 7 learned counsel for the petitioner has submitted that the submissions made by the respondents is false, evasive and an afterthought intended to justify an arbitrary tender decision. The respondents have failed to explain the rejection of the petitioner's technical bid, which was made without any speaking order, deficiency memo, opportunity of clarification or

disclosure of reasons. The petitioner's experience certificate fulfilled the requirement of "similar work" under the NIT, whereas respondent No. 4 was wrongly declared qualified despite material discrepancies in the bidder's documents, solvency certificate and eligibility calculation. The respondents cannot improve their case through subsequent explanations, as the legality of the tender process must be assessed from the original record and tender conditions. The subsequent execution of the agreement and issuance of work order cannot validate an illegal selection process. Hence, the impugned tender evaluation is arbitrary, discriminatory and contrary to the mandatory conditions, and the writ petition deserves to be allowed with consequential reliefs.

7. We have heard learned counsel for the parties and perused the pleadings and documents appended in the writ petition.
8. The Hon'ble Supreme Court in the case of **Tata Motors Limited v The Brihan Mumbai Electric Supply & Transport Undertaking (Best) and Others** passed in Civil Appeal No. 3897 of 2023 vide judgment dated 19.05.2023 held as follows :

"48. This Court being the guardian of fundamental rights is duty-bound to interfere when there is arbitrariness, irrationality, mala fides and bias. However, this Court has cautioned time and again that courts should exercise a lot of restraint while exercising their powers of judicial review in contractual or commercial matters. This Court is

normally loathe to interfere in contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or irrationality is made out. One must remember that today many public sector undertakings compete with the private industry. The contracts entered into between private parties are not subject to scrutiny under writ jurisdiction. No doubt, the bodies which are State within the meaning of Article 12 of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of superior courts but this discretionary power must be exercised with a great deal of restraint and caution. The courts must realise their limitations and the havoc which needless interference in commercial matters can cause. In contracts involving technical issues the courts should be even more reluctant because most of us in Judges' robes do not have the necessary expertise to adjudicate upon technical issues beyond our domain. The courts should not use a magnifying glass while scanning the tenders and make every small mistake appear like a big blunder. In fact, the courts must give "fair play in the joints" to the government and public sector undertakings in matters of contract. Courts must also not interfere where such interference will cause unnecessary loss to the public exchequer. (See: *Silppi Constructions Contractors v. Union of India*, (2020) 16 SCC 489).

52. Ordinarily, a writ court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer unless something very gross or palpable is

pointed out. The court ordinarily should not interfere in matters relating to tender or contract. To set at naught the entire tender process at the stage when the contract is well underway, would not be in public interest. Initiating a fresh tender process at this stage may consume lot of time and also loss to the public exchequer to the tune of crores of rupees. The financial burden/implications on the public exchequer that the State may have to meet with if the Court directs issue of a fresh tender notice, should be one of the guiding factors that the Court should keep in mind. This is evident from a three-Judge Bench decision of this Court in *Association of Registration Plates v. Union of India and Others*, reported in (2005) 1 SCC 679.

53. The law relating to award of contract by the State and public sector corporations was reviewed in *Air India Ltd. v. Cochin International Airport Ltd.*, reported in (2000) 2 SCC 617 and it was held that the award of a contract, whether by a private party or by a State, is essentially a commercial transaction. It can choose its own method to arrive at a decision and it is free to grant any relaxation for bona fide reasons, if the tender conditions permit such a relaxation. It was further held that the State, its corporations, instrumentalities and agencies have the public duty to be fair to all concerned. Even when some defect is found in the decision-making process, the court must exercise its discretionary powers under Article 226 with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. The

court should always keep the larger public interest in mind in order to decide whether its intervention is called for or not. Only when it comes to a conclusion that overwhelming public interest requires interference, the court should interfere.

54. As observed by this Court in *Jagdish Mandal v. State of Orissa and Others*, reported in (2007) 14 SCC 517, that while invoking power of judicial review in matters as to tenders or award of contracts, certain special features should be borne in mind that evaluations of tenders and awarding of contracts are essentially commercial functions and principles of equity and natural justice stay at a distance in such matters. If the decision relating to award of contract is bona fide and is in public interest, courts will not interfere by exercising powers of judicial review even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. Power of judicial review will not be invoked to protect private interest at the cost of public interest, or to decide contractual disputes.”

9. In the present case, the controversy in the present writ petition mainly revolves around the validity of the technical evaluation conducted by the respondent authorities under the Notice Inviting Tender and the consequential award of the contract in favour of respondent No. 4. While the petitioner contends that his technical bid was arbitrarily rejected despite fulfilling the prescribed eligibility criteria and that respondent No. 4 was illegally declared

technically qualified on the basis of an invalid solvency certificate, incorrect application of the escalation factor, and reliance upon documents of different entities, the official respondents as well as respondent No. 4 have consistently maintained that the petitioner was rightly disqualified for not satisfying the mandatory requirement relating to execution of similar works as defined under the tender conditions, whereas respondent No. 4 fulfilled all the eligibility criteria, submitted all requisite documents in accordance with the NIT, and was validly declared the successful L-1 bidder after due scrutiny. The respondents have further asserted that the solvency certificate of respondent No. 4 was duly verified by the issuing bank, the valuation of experience was computed strictly in terms of the tender conditions, and the agreement and work order were lawfully issued, pursuant to which the work has already commenced.

10. The petitioner has failed to place any cogent material to demonstrate that the decision of the Tender Evaluation Authority rejecting his technical bid for non-fulfilment of the prescribed eligibility criteria was factually erroneous or contrary to the terms of the NIT, or that the technical qualification of respondent No. 4 suffered from any patent illegality. The petitioner has also failed to establish that the decision-making process was vitiated by mala fides, favouritism, arbitrariness, or irrationality so as to warrant

interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

11. In view of the aforesaid discussion and the settled principles governing the scope of judicial review in contractual and tender matters as laid down by the Hon'ble Supreme Court, we are of the considered opinion that the petitioner has failed to make out any case warranting interference under Article 226 of the Constitution of India. The petitioner has not been able to demonstrate that his technical disqualification was contrary to the terms of the Notice Inviting Tender or that the technical qualification and selection of respondent No. 4 suffered from any patent illegality. No material has been placed on record to establish that the decision-making process was vitiated by arbitrariness, mala fides, favouritism, irrationality, or procedural impropriety. Consequently, the present writ petition, being devoid of merit, deserves to be and is accordingly **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice