

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 970 of 2015**

Ratan Dubey S/o Shri Vansh Gopal Dubey Aged About 42 years R/o
Narayanpur, Tahsil & District Narayanpur (Chhattisgarh)

---- **Petitioner****Versus**

1. The State Of Chhattisgarh Through The Principal Secretary, Govt. Of Chhattisgarh, Department Of Panchayat & Rural Development, Mahanadi Bhawan, New Mantralaya, P.S. Mandir Hasaud, Raipur, (Chhattisgarh)
2. The Chief Executive Officer, Chhattisgarh Rural Road Development Agency, Raipur, District Raipur, (Chhattisgarh)
3. The Chief Engineer, Chhattisgarh Rural Road Development Agency, Raipur, Raipur, (Chhattisgarh)
4. The Superintending Engineer, Chhattisgarh Rural Development Agency, Project Circle No.02, Jagdalpur, District Bastar (Chhattisgarh)
5. The Executive Engineer, District Project Implementation Unit Chhattisgarh Rural Development Agency, Narayanpur, District Narayanpur, (Chhattisgarh)

---- **Respondents**

For Petitioner:-

Shri Sushil Dubey, Advocate

for Respondents/State:-

Shri B. Gopa Kumar, Dy. Advocate General.

Hon'ble The Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Order On Board****Per Navin Sinha, Chief Justice****13/08/2015**

1. In this Writ Petition, the Petitioner questions the publication of NIT No.36 by the Chhattisgarh Rural Development Agency inviting offers for construction of roads under the Pradhan Mantri Gram Sadak Yojna (PMGSY) in eight packages.
2. Learned Counsel for the Petitioner submitted that in pursuance of an earlier tender notice published, one Pincha Builders were found eligible but

failed to fulfill the pre-conditions for signing of the necessary agreement. Consequently, the Respondents resorted to fresh selection of contractors by nomination. The District Selection Committee found the Petitioner to be the lowest bidder with regard to three packages. The recommendation of the Committee was forwarded to the Chief Executive Officer. The Petitioner is ready and willing to perform works at the rates offered by him. In stead of awarding the works to him, the authorities have wrongly published a fresh tender notice for the same packages.

3. Learned Counsel for the State submitted that merely being the lowest bidder by nomination, created no vested right in the Petitioner. Further more, it was only a recommendation by the District Level Selection Committee which may or may not have been accepted by the Chief Executive Officer. A bona fide decision was taken to go in for a fresh tender rejecting the recommendation of the Selection Committee. There are no allegations of malafides or arbitrariness and on the contrary, the counter affidavit discloses the reasons with regard to complaints received. It was lastly submitted that the Petitioner also participated unsuccessfully in the fresh NIT 36 and which is not challenged.

4. We have considered the submissions on behalf of the parties.

5. The grant of a any Government largesse by award of a contract, more particularly for construction of roads is required to be done strictly in accordance with Article 14 of the Constitution by publication of a tender notice, invitation of bids followed by award of works to the competent so that public finances and interests are also fully protected.

6. Award of works by nomination has always been considered an exception to the normal principle of inviting bids through open auction. It is under exceptional and pressing circumstances that works may be awarded

through nomination. Even if a decision had been taken to award works by nomination and it was subsequently changed, in absence of any allegations of malafides, we find it difficult to interfere. The publication of the fresh NIT is only in consonance with Article 14 of the Constitution.

7. The question that whether any complaints had been received or not is again considered irrelevant as a mere recommendation of the District Level Selection Committee did not create a vested legal right in the Petitioner but only a contingent or a conditional right subject to acceptance of the recommendation. If the recommendation was not accepted, even that limited right failed to fructify.

8. Merely because the Petitioner may have been the lowest bidder in the nomination process again does not create any vested legal right to demand acceptance. There is no indefeasible right in the lowest bidder to demand acceptance of its tender.

9. The unsuccessful participation in the fresh NIT by the Petitioner has not been denied in the rejoinder to the counter affidavit.

10. In the entirety of the discussion, we find no merit in the Writ application.

11. The Writ Petition is dismissed.

Sd/-
(Navin Shiha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE