

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.1033 of 2015**

M/s C.D.O. Securities and Public Helpline Service, through its Proprietor Anjani Kumar Dwivedi, son of Shri Shyam Lal Dwivedi, aged about 36 years, Address H.O.D.3 New Indira Market, Near Bhilai Power House Railway Station, Bhilai, District Durg, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Health and Family Welfare Department, Mahanadi Bhawan, Mantralaya, P.S. Rakhi Tahsil Aarang, Naya Raipur, District Raipur, Chhattisgarh
2. Director, Medical Education, Old Nurses Hostel, DKS Bhawan Premises, Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri C.J.K.Rao, Advocate
For State/Respondents	:	Shri U.N.S.Deo, Government Advocate

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board**Per NAVIN SINHA, C.J.****22/7/2015**

1. The Respondents published an online tender on 6-1-2015 for providing security services. The price bids were opened on 17-3-2015. The Petitioner claims that he was L-1 and is aggrieved by the cancellation of the tender notice itself on 23-5-2015.

2. Learned Counsel for the Petitioner submits that the cancellation is arbitrary. The impugned order only mentions unavoidable reasons and not the specific reason for cancellation. After the financial bid was opened, rate quoted by the Petitioner stood exposed. If a fresh tender is permitted and even if the Petitioner also participates, still he stands to be gravely prejudiced as others may now quote rates appropriately considering his earlier rate to gain advantage over him. He next submits that if the tender notice published, giving the nature of works, contained certain erroneous entries on basis of which bids may have been

submitted, the authorities may well ignore the irrelevant entries and then decide afresh. The Petitioner would still be in the L-1 category.

3. Learned Counsel for the State submits that the tender notice calling for bids to provide security services erroneously contained items like bonus and leave wages etc. wholly inapplicable for providing security services. A *bona fide* decision was therefore taken to cancel the tender notice itself and go on for fresh correct tender notice. Clause 14 of the online tender vested authority in the Respondents to cancel the tender without giving any reason. The Respondents cannot be said to have acted arbitrarily in the facts of the case in cancelling the tender. In judicial review, the Court may not interfere. Even if the erroneous columns are excluded as urged on behalf of the Petitioner, the Petitioner would not be L-1 with regard to the bids that he had submitted.

4. We have considered the submissions on behalf of the parties and are satisfied that the writ application can be disposed on a limited issue without considering all contentions and counter-contentions.

5. Ordinarily, a tender once published must be taken to its logical conclusion. Though the Respondents retain the right to cancel the tender notice, it cannot be done arbitrarily. Judicial review shall therefore be confined only to examination if the reason for cancellation was relevant and germane. If these two conditions are fulfilled, the Court cannot step into the shoes of the authorities to take decisions on their behalf.

6. If the tender notice contained an irrelevant or erroneous column, keeping in mind which also, a tenderer submitted his bids, we consider the same a valid ground for cancellation of the tender notice. Needless to observe at this stage that a bidder while quoting his rates must obviously have taken into consideration the costs to be incurred by him in columns which have been subsequently turned out inapplicable. In

the fresh tender notice, these columns will be absent. Therefore, each bidder will now re-evaluate his own estimation for submission of bids on criteria different from the earlier one. We are therefore satisfied that no prejudice is going to be caused to the Petitioner if the Respondents publish a fresh tender notice in which the Petitioner, if he so desires, can participate also.

7. We, therefore, find no reason to interfere with the impugned order cancelling the tender notice. The writ application is disposed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE