

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (C) No. 1140 of 2015**

Bharat Engineering Works, Through Proprietor Pawar Kumar Agrawal, Son of Shri Rudmal Agrawal, aged about 50 years, Resident of Pine 221, Parthivi Pacific, Tatibandh, Raipur, Civil and Revenue District Raipur, Chhattisgarh

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

1. State of Chhattisgarh, Through the Secretary, Public Works Department, Secretariat, Mahanadi Bhawan, New Raipur, P.S. & Post Rakhi, District Raipur, Chhattisgarh.
2. The Chief Engineer, Public Works Department, Dantewada, Chhattisgarh.
3. The Executive Engineer, Public Works Department (Bha/Sa) South Bastar Division, Dantewada, Dantewada, Chhattisgarh.
4. Shri Ram Construction Tatyapara Chowk, Tamboli Bhawan, Raipur, Chhattisgarh.

**---- Respondents**


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| For Petitioner        | : | Shri Y.C.Sharma, Advocate.                          |
| For Respondents/State | : | Shri Prafull N Bharat, Additional Advocate General. |

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

**Order on Board****Per Navin Sinha, Chief Justice****25/08/2015**

1. The Petitioner is aggrieved by denial to supply him tender documents in response to NIT dated 24.5.2015. The last date for purchase of tender documents was 8.6.2015 and for submission of tenders 15.6.2015. The tenders were to be opened on 16.6.2015. Works have then been awarded to Respondent No. 4.

2. Learned Counsel for the Petitioner submits that it was wrongly denied supply of tender documents on 8.6.2015. The Petitioner had submitted all necessary documents and certificates for the purpose as required by the NIT. He wrote his protest on 9.6.2015 and sent it by speed post on 10.6.2015. The Petitioner acted with utmost expeditiousness. If his request for supply of tender documents was not in accordance with the NIT, he ought to have been told so that he may have made up the deficiency, if there was any. The Petitioner's request was taken up for consideration on 15.6.2015, the last date for submission of tenders leaving no opportunities for him to rectify defects, if any, to obtain tender documents. Respondent No. 4 likewise had also simply stated that necessary documents were attached alike the application of the Petitioner for supply of tender documents. While the counter-affidavit asserts that there were three candidates in the fray, the documents annexed to the same reflect that there were only two persons being considered.

3. Learned Additional Advocate General opposing the writ application submitted that the Petitioner's request for tender documents was not accompanied by the necessary money for purchase of tender forms alongwith other necessary documents such as its registration number, certificate of authorised sign converter from the manufacturer of retro reflective sheeting company, seven years pre-qualification warranty certificate from the original sheeting manufacturer of retro-reflective sheeting as per MORTH, Cal Coast Test Report for reflective sheeting and certificate of experience. There is no denial to the counter-affidavit by any rejoinder. The other contesting tenderers are not complaining award of works to Respondent No.4. The works have been awarded to Respondent No. 4 on 16.6.2014 after it was found to be the lowest bidder. It was next submitted that while the Petitioner's application dated 8.6.2015 simply stated that it was enclosing all relevant certificates, that of Respondent No. 4 states that it was accompanied by necessary documents and fees attached to the same. It is lastly submitted that earlier also, the

Petitioner had approached this Court raising similar grounds in Writ Petition (C) No. 1356 of 2013 with relation to another NIT and which was dismissed.

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

5. Whether the Petitioner had applied in the prescribed manner enclosing the necessary documents and attaching the prescribed fee or not are questions of fact. The Respondents in their counter-affidavit have specified more than one deficiency because of which the Petitioner was denied supply of tender documents. There is no denial to the same by a rejoinder. It is thus an admitted fact.

6. If the Petitioner did not apply for tender documents in the prescribed manner, it has no locus in the matter and the other bidders are not complaining. Last but not the least, we have also perused the order dated 2.12.2013 in Writ Petition (C) No. 1356 of 2013 preferred by the Petitioner with regard to another contract in like manner and which was declined to be entertained.

7. There is no merit in the writ application. It is dismissed.

Sd/-

(Navin Sinha)  
**CHIEF JUSTICE**

Sd/-

(P. Sam Koshy)  
**JUDGE**