

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (C) NO. 2097 OF 2015

Santosh Sharma, S/o Late Agar Chand Sharma, aged about 56 years,
R/o C-65, Samta Colony, District: Raipur, Chhattisgarh, India

... Petitioner

Versus

1. State of Chhattisgarh, through Secretary, PWD, Mantralaya Parisar,
Naya Raipur, District: Raipur, Chhattisgarh

2. Executive Engineer, PWD, Raipur Division, District: Raipur,
Chhattisgarh

... Respondents

For Petitioner	:	Mrs. Fouzia Mirza, Advocate.
For Respondent-State	:	Mr. U.N.S. Deo, Govt. Advocate.

Hon'ble Shri Navin Sinha, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per NAVIN SINHA, C.J.

27/11/2015

1. The Petitioner was a bidder in response to Notice Inviting Tender (hereinafter referred to as 'NIT') dated 9.9.2015 for auction of old vehicles. He is aggrieved by order dated 12.10.2015 communicating rejection of his bid as non-compliant with condition no. 3 (a) & (b) of the NIT leading to non-consideration of his offer.

2. Learned Counsel for the Petitioner submits that the advertisement published by the Respondents in the newspaper mentioned that details of the NIT were available on the website, www.cg.nic.in/pwdraipur. But, when the Petitioner opened the website to download the necessary information, he did not find terms and conditions or other information pertaining to the NIT uploaded. He contacted the office of the Respondents for details but nothing was provided to him. He had submitted his bid within time on 26.9.2015. He

had also represented to the authorities on 9.10.2015 which has not been paid heed to.

3. Learned Counsel for the State submitted that the bid submitted by the Petitioner was non-compliant with the NIT. The order impugned dated 12.10.2015 is justified and valid in law calling for no interference.

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

5. The grievance of the Petitioner for the alleged wrongful rejection of his bid, in exercise of judicial review, will have to be examined firstly with regard to his own conduct followed by any errors in the decision making process by the Respondents in rejecting his offer.

6. The Notice Inviting Tender was published on 9.9.2015. It only mentions the temporary registration of the vehicles to be auctioned, the value of the tender form for each and the place where the vehicle was parked for inspection. Further details were to be downloaded from the website. The last date for collecting the forms was 26.9.2015 and the last date for submission of bids was 6.10.2015. The bids were to be opened on 7.10.2015.

7. The writ petition does not state that how and in what manner the Petitioner submitted his bid if he had no further information available due to the Respondents not having uploaded it. The fact that his bid has been found non-compliant only with regard to condition no. 3 (a) & (b), apparently means he had complied other terms and conditions. It leaves us with the distinct impression that the Petitioner was in fact fully aware of the terms of the NIT as in his pleadings he has not even mentioned what grounds 3 (a) & (b) were and how he had complied with the same or that there were no other requirements in the NIT.

8. The last date for submission of bids was 6.10.2015. The forms were on sale from 26.9.2015. The Petitioner bidding for a commercial contract is presumed to be aware of the urgency of the matter and there is no explanation that if he could not find the details uploaded on the website why he did not represent before the authorities before 6.10.2015, the last date for submission of bids. The first representation was given by him on 9.10.2015. It only states that he had submitted a compliant bid and was not aware why his bid had not been considered. No ground has been taken in the representation that the details were not uploaded on the website contrary to the recital in the advertisement.

9. Last but not the least, the bids were to be opened on 7.10.2015 and the writ petition has been filed much thereafter on 19.11.2015.

10. We put a question to the Learned Counsel for the Petitioner with regard to the number of bidders who may have applied in response to the NIT. Learned Counsel for the Petitioner was not able to assist us in the matter.

11. In the entirety of the facts and circumstances of the case, we are satisfied that the Petitioner is essentially fishing in troubled waters trying to find ways and means to scuttle the settlement of the tender merely because he was shut out from the zone of consideration, in the fond hope that it would provide him another opportunity for bidding in view of the lacuna in his first bid.

12. The writ petition is frivolous and is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge