

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 650 of 2015**

M/s. Sai Construction (Partnership firm) Head Office at Green Park Colony, Jarhabhata, Bilaspur, through its partner Atul Shukla S/o Shri Sudama Prasad Shukla, Aged about 43 years, R/o Green Park Colony, Jarhabhata, Police Station Civil Line, Tehsil and District Bilaspur (CG)

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

1. State of Chhattisgarh Through Secretary Public Works Department, Mantralaya, New Raipur, District Raipur (C.G.)
2. The Engineer-in-Chief Public Works Department Sirpur Bhawan Raipur, District Raipur (C.G.)
3. The Superintending Engineer, Office of Engineer-in-Chief Public Works Department, Sirpur Bhawan Raipur District Raipur (CG)

---- **Respondents**

For Petitioner	:	Shri Kishore Bhaduri and Shri Rahul Jha, Advocates
For Respondents/State	:	Shri A.S. Gaharwar, Additional Advocate General

**HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P.SAM KOSHY, J.**

Order On Board**Per NAVIN SINHA, C.J.****16/04/2015**

1. Learned Counsel for the Petitioner submits that the Respondents have published a Notice Inviting Tender (NIT) on 2.3.2015 bearing NIT No.F21-7/T/2012/19 for construction of road. Clause 1 of the pre-qualification document requires that each prime contractor in the same name and style (Tenderer) must in the previous five years *inter alia*, have done 60% of

construction work of the probable amount of the contract for which, the bid has been invited in any one financial year.

2. The Petitioner partnership originally comprised of two partners only. It was reconstituted by induction of M/s. B. Murty Pillai on 31st October, 2009. To facilitate participation in the present tender, it sought an eligibility certificate in terms of Clause 1 of the pre-qualification document. The certificate dated 10.2.2015 manifests that the work experience of the reconstituted partnership firm has not been considered and the certificate has been awarded only on basis of the partnership status as existing before reconstitution. The Petitioner therefore genuinely apprehends that the Respondents will disqualify the partnership firm as ineligible under Clause 1. The writ petition therefore is not premature, but is based on a genuine apprehension when no other conclusion appears possible.

3. Learned Additional Advocate General for the State raises a preliminary objection that the writ application was premature. No final decision has yet been taken. The apprehension may be correct or may be incorrect. He next submits that it does not appear from the pleadings that the Petitioner has raised any grievance before the authorities with regard to his perception that the experience certificate granted to him was not appropriate.

4. We have considered submissions on behalf of the parties and are in agreement with the Learned Additional Advocate General that the writ application is clearly premature at this stage. Quite apart from the issue that no final decision has yet been taken, we also find that the Petitioner has not approached the authorities raising any grievance with regard to the experience certificate dated 10.2.2015 issued to it as being erroneous on

grounds perceived by it. The stage for judicial review on the question whether the Petitioner fulfills the eligibility or not under Clause 1 of the pre-qualification document has therefore not arrived.

5. The only appropriate order to be passed at this stage is to be observe that if the Petitioner represents before the competent authority raising a grievance with regard to the nature of the experience certificate issued to it, we require the Respondents to take an expeditious decision in the matter and pass a reasoned and speaking order in accordance with law preferably within a maximum period of four weeks from the date of receipt and/or production of the copy of the present order along with such representation.

6. The writ petition stands disposed with the above observations.

(Navin Sinha)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE