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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 382 of 2016**

M/s Surya Telecom Pvt. Ltd. Through Asst. Manager Sandeep Chauhan, S/o Shri Omkar Chauhan Aged About 25 Years R/o Sector- 3, S.C.O.- 36, Panchkula, Village Panchkula, Thana And Tahsil Panchkula District Panchkula, Haryana.

---- Petitioner**Versus**

1. State of Chhattisgarh Through : Secretary Department of Home, Jail Transport And Water Resources, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. The Director General of Police, Police Head Quarter, Civil Lines, Raipur, District Raipur (Chhattisgarh)
3. The Deputy Inspector General of Police (Telecommunications) Police Head Quarters Chhattisgarh Civil Lines, Raipur, District Raipur (Chhattisgarh)
4. M/s Mobile Communications (India) Pvt. Ltd., A- 16 (Front Side), Naraina Industrial Area, Phase- II, New Delhi Pin Code 110028
5. M/s Arya Communications & Electronics Services Pvt. Ltd., Through Managing Director, Off.- 601, Rishab Tower, Karkardooma Community Centre, Karkardooma, Opp. Dayanand Vihar, Delhi.

---- Respondents

For Petitioner	: Shri Rahul Jha and Shri Anshul Shrivastava, Advocates.
For Respondents/State	: Shri JK Gilda, Advocate General with Shri UNS Deo, Government Advocate.

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

Order on Board**Per Navin Sinha, Chief Justice****10/02/2016**

1. Heard Learned Counsel for the Petitioner and the Advocate General for the State.
2. In this writ application the petitioner challenges Clause-41 of the Notice Inviting Tender ('NIT') dated 23.6.2015 for supply of Digital Higher Band Set and Satellite Phones of defined specifications.
3. Learned Counsel for the Petitioner submits that contrary to previous occasions, deviating from the same, Clause-41 was added for the first time in the present NIT laying down a pre-qualification for turn over of Rs.20 Crores or more in the previous three consecutive years as eligibility for participation by a bidder.

This quantum is excessively high. The Petitioner who is the only competitor of Respondent No.4 has thus sought to be made ineligible as he does not possess the requisite requirement. The Petitioner had protested in writing before the last date for submission of bids. The tender has been opened on 28.12.2015 but has not been finalised as yet and no rights have accrued to Respondent No.4 who is colluding with Respondent No.5 to create an artificial competition with the latter quoting high rates deliberately to ensure that the tender is allotted to the former and others get no opportunity to be considered.

4. Learned Advocate General for the State submits that the last date for submission of bids was 27.7.2015. The Petitioner does not claim to be a bidder. The terms of tender are for the authorities to decide. If any one has a perceived grievance that he was being rendered eligible for consideration and the terms of the tender deserve reconsideration, the aggrieved ought to have approached the Court in time. The earlier Writ Petition (C) No.124 of 2016 itself preferred belatedly was also incomplete and was withdrawn to file the present application afresh. The Petitioner cannot be given advantage of its own lapses.

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

6. The NIT was published on 23.6.2015. The Court is not inclined to entertain the writ application on the short ground that if the last date for submission of bids was 27.7.2015 and the Petitioner for his perceived grievance with regard to Clause-41, represented on 23.7.2015, nothing prevented it from pursuing legal remedies in time by approaching a Court of law. The terms of a tender are primarily for the authorities to decide and it is not for the Court to render its wisdom on the same. The earlier writ petition was also filed belatedly in the year 2016. It was permitted to be withdrawn on 19.1.2016 on the plea of the Petitioner itself that it was lacking material particulars. A litigant cannot approach the Court in haste, file an incomplete application, withdraw its application and then file a belated application seeking reopening of the entire

tender process thus giving advantage to it for its own lapses. The final bids have been opened on 28.12.2015. The fact that the works may not have been finalised with any person cannot be sufficient justification to condone the actions of the Petitioner. There is always an urgency in tender matters and one who is aggrieved must approach the Court in time. The Court will be loath to interfere with tender matters on a belated requests interfering unnecessarily and delaying the whole process which may also lead to cost escalation, delay in works and other such reasons.

7. The writ petition is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE