

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 475 of 2016**

Vijay Advertisers & Consultancy, Through: Its proprietor Vijay Deshmukh, S/o Shri Nilkant Rao Deshmukh, Aged about 35 years, R/o EWS 67, Nehru Nagar, Bilaspur, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, Through Secretary, Urban Administration and Welfare Department, Mahanadi Bhawan, Naya Raipur, Raipur Chhattisgarh.
2. Commissioner, Municipal Corporation, Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents.

For Appellant	:	Shri Anup Majumdar, Advocate.
For Respondent/State	:	Shri R.K.Gupta, Deputy Advocate General.
For Respondent No. 2	:	Shri Manoj Mishra, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice**Hon'ble Shri P. Sam Koshy, J.****Order on Board****Per Navin Sinha, Chief Justice****22/03/2016**

1. In this writ application, the challenge is to the Notice Inviting Tender (hereinafter called 'the NIT') dated 6.2.2016 inviting applications for installation of Unipoles.
2. Learned Counsel for the Petitioner submits that the NIT itself was in violation of statutory provisions with regard to the manner for publication of the tender notice. Earlier also, the Respondent-Corporation had published an NIT on 24.11.2015. The Petitioner had preferred Writ Petition (C) No. 229 of 2015 against the same. The Respondents had then cancelled the NIT.
3. Learned Counsel, Shri Manoj Mishra, appearing for the Municipal Corporation, submits that he has instructions to state that the NIT itself has been cancelled. The writ petition has therefore become infructuous.
4. In reply, Learned Counsel for the Petitioner submits that the action of the Respondent-Corporation in cancelling the tender notice each time it is published

after the legality of the same is assailed in a writ petition reflects arbitrariness in action contrary to the requirement for fairness in action under Article 14 of the Constitution. He further submits that postponement of the tender process will only lead to cost escalation to the benefit of none.

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

6. If the tender notice itself has been cancelled, there is no occasion for us to examine whether it was in accordance with the statutory provisions or not. To that extent, the writ application has become infructuous.

7. But we do find substance in the submission on behalf of the Petitioner that repeated cancellation of tender notice does not appear to be proper on part of the Respondents. The Respondent-Corporation being a 'State' under Article 12 of the Constitution is expected to act prudently and responsibly. Repeated cancellation of the tender notice will only lead to cost escalation at the cost of public exchequer. The Respondent-Corporation is expected to act more prudently and responsibly by publishing tender notice in due compliance with statutory requirements so that the tender for Unipoles is finalised at the earliest in accordance with law to the benefit of all.

8. The writ application is disposed with the aforesaid observations.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE