

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (C) NO. 732 OF 2016

- M/s Raghav Advertising, a Proprietorship Firm having its Corporate Office at Nathani Complex, Beside I.T.I. Near Gurudwara, Shyam Nagar, Raipur, through its Sole Proprietor Smt. Richa Agrawal, W/o Ritesh K. Agrawal, aged 34 years, Sole Proprietor, R/o House No.8, Behind Matrapitra Complex, Priyadarshani Nagar, Raipur (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through its Secretary, Department of Union & Rural Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Post Office & Police Station, Naya Raipur, District Raipur (C.G.)
2. Municipal Corporation, Raipur, through its Commissioner, Municipal Corporation, Raipur, District- Raipur (C.G.)
3. Commissioner, Municipal Corporation, Raipur (C.G.)

... Respondents

For Petitioner	:	Mr. Malay Shrivastava, Advocate.
For Respondent 1	:	Mr. Prafull Bharat, Addl. Advocate General.
For Respondents 2 & 3	:	Mr. Pankaj Agrawal, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per P. Sam Koshy, J.

21/03/2016

1. The Petitioner through the present writ petition has challenged Annexure P-1, dated 8.3.2016, which is a Notice Inviting Tender (NIT) in respect of Advertising Space Rights in the 98 City Buses being operated in the Raipur District by the Municipal Corporation, Raipur.
2. Grievance of the Petitioner is that the Petitioner was the successful bidder for the said work in the advertisement published in the year 2014. The said NIT published in 2014, as per the advertisement, was for a period of three years. The Petitioner being successful bidder was awarded the work order on 31.7.2014 and an agreement in this regard was executed on 8.8.2014. However, while

executing the agreement, the period was mentioned as only one year with renewable clause of six months each with an increase of the amount agreed upon at the rate of 20%.

3. Counsel for the Petitioner submits that since the advertisement was issued for a period of three years and that period of three years still not over, the Respondents should not have floated the NIT, Annexure P-1, and should have continued with the agreement entered into with the Petitioner by extending the period periodically till the actual period of the NIT of three years starting from 8.8.2014 is not complete.

4. Perusal of the records would show that the Petitioner in furtherance to the NIT published on 8.8.2014 had entered into an agreement with the Respondents for a period of one year with a renewable clause for six months each at an increase of 20% of the amount. The said period of one year got completed on 7.8.2015. Thereafter, the Petitioner was granted an extension of time for a period of six months vide Annexure P-4, dated 10.8.2015, which further stands concluded on 9.2.2016. As such the contract of the Petitioner with the Respondents has already come to an end though the Petitioner might have made a representation for extending the same in view of the NIT of the year 2014 stipulating the period of contract to be three years.

5. Admittedly, the contract with the Petitioner was for a period of one year with renewable clause but that by itself would not create a substantive right in favour of the Petitioner for enforcement of a condition of an advertisement of the year 2014 which down the line the Petitioner itself has not pursued or protested while executing the agreement in the year 2014 and accepting the validity of the contract to be one year with renewable clause.

6. In the instant case, the Petitioner has completed the original contractual period of one year and has further also completed the extended period of six months. The subsequent renewal of six months cannot be claimed as a matter of right unless it is actually agreed upon by the parties.

7. The Petitioner does not now in the year 2016 get a right for invoking of a clause of a NIT of the year 2014 which the Petitioner had knowingly, willfully and with wide open eyes had accepted to be of one year at the time of executing of the contract agreement on 8.8.2014 as is reflected from Annexure P-3. The fact that the Petitioner in the year 2014 itself having waived the clause of three years contractual period envisaged in the advertisement of the year 2014, now after enjoying the benefits of the agreed period of contract with the Respondents cannot turn around nor can he challenge the subsequent issuance of the NIT, Annexure P-1, after the conclusion of the original period of one year as well as the extended period of six months. The Petitioner's right to participate in the fresh NIT also is not in any manner precluded.

8. Hence, the petition being totally devoid of merits the same is dismissed.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(P. Sam Koshy)
Judge