

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 461 of 2016**

M/s. Sidhi Construction, Through Proprietor, Dilip Kumar Gupta, S/o Radheshyam Gupta, aged about 44 years, R/o Near Bus Stand Pandariya, Police Station Pandariya, Tehsil Pandariya, Revenue and Civil District Kabirdham (Chhattisgarh).

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary, Urban Administration and Development, Mantralaya New Raipur, Tehsil, Revenue and Civil District Raipur, Chhattisgarh.
2. The Joint Director, Urban Administration and Development, Regional Office, Durg, Tehsil Revenue and Civil District Durg, Chhattisgarh.
3. The Collector, District Kabirdham, Tehsil Revenue and Civil District Kabirdham, Chhattisgarh.
4. Nagar Panchayat, Pandariya, Through Chief Municipal Officer, Nagar Panchayat, Pandariya, Tehsil Pandariya, Revenue and Civil District Kabirdham, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Vinod Deshmukh and Shri Rupesh Shrivastava, Advocates.
For Respondent/State	:	Shri Prafull N Bharat, Additional Advocate General.

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

Order on Board**Per Navin Sinha, Chief Justice****18/02/2016**

1. The present application assails order dated 16.12.2015 cancelling the earlier tender process and the fresh tender notice issued on 5.2.2016.

2. Learned Counsel for the Petitioner submits that Respondent No. 4 invited tender dated 1.10.2015 for various works in the Pandariya Panchayat. The Petitioner, inter alia, was one of the bidders. Before opening of the price bids, certain complaints were received. Without any enquiry or affording an opportunity of hearing to the participating bidders, the impugned order dated 16.12.2015 was issued cancelling the tender notice and fresh tenders invited in haste.

3. Learned Counsel for the State opposing the application submits that the order dated 16.12.2015 itself recites that pursuant to certain complaints received an enquiry had been conducted and based on the report dated 26.11.2015, the tender was cancelled. It is therefore apparent that there has been no arbitrariness and the cancellation is based on due application of mind for reasons recorded. In any event, the Petitioner has no locus as no work had been awarded to it. It is open for the Petitioner to participate in the fresh tender process and be considered in accordance with law. It was lastly submitted that though the impugned order was issued far back on 16.12.2015, the writ petition has been filed on 15.2.2016 after the fresh tender notice was published on 5.2.2016.

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

5. Normally, if a tender notice is published, the tender process is required to be taken to its logical conclusion in accordance with law by awarding of works to the eligible. But nothing prevents the authorities from cancelling the tender before award of works or in certain cases even thereafter for valid, germane and relevant reasons. Judicial review will have to be confined only to the decision making process for cancelling the tender. If the cancellation is done arbitrarily without valid reasons to give undue favour to another bidder without recording any reasons, dependent on the facts and circumstances of a case, it may warrant judicial interference. The impugned order dated 16.12.2015 is explicit in

its reasoning that complaints were received, records were called, preliminary enquiry done followed by the report dated 26.11.2015 enclosed to the impugned order after which the tender process was cancelled. It is therefore manifest that there has been due application of mind by the Respondents for reasons recorded in writing to cancel the tender process. The writ petition on the contrary alleges that it has been cancelled without disclosing any reasons. If the Petitioner has chosen to present a truncated documents without the enclosure to the same, it is not open for it to argue that the cancellation order is arbitrary. The Petitioner appears have rushed to this Court in haste without applying its own mind to the question whether it had a case at this stage or not considering that no works had even been awarded to it. The Petitioner has himself to be blamed for the manner in which he had brought the issue before the Court in an unprepared manner. The Petitioner had sufficient time from 16.12.2015 till 5.2.2016 to challenge the impugned order. The challenge has also been made belatedly much after the fresh tender notice was published.

6. No prejudice has been caused to the Petitioner in any manner and if it so desires, it can always participate under the fresh tender notice.

7. The writ petition is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE