

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No. 2683 of 2016

Ashok Kumar Mittal S/o Late P.L.Mittal, aged about 50 years, R/o HIG-III MP Nagar, Niharika, PS Rampur, Tahsil and District Korba, (Chhattisgarh)

---- Petitioner

Versus

1. State of Chhattisgarh, Through: The Secretary, Public Works Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh.
2. The Engineer-in-Chief, Public Works Department, Sirpur Bhawan, Civil Lines, Raipur, District Raipur, Chhattisgarh.
3. The Chief Engineer (Tender Cell) Office of the Engineer-in-Chief, Public Works Department, Sirpur Bhawan, Civil Lines, Raipur, District Raipur, Chhattisgarh.
4. Executive Engineer, Public Works Department, Bridge Construction Division, Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner : Shri Rahul Jha, Advocate.
For State/Respondent : Shri Prafull N Bharat, Additional Advocate General.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Justice Sanjay Agrawal

Order on Board

Per Deepak Gupta, Chief Justice

29/11/2016

1. The Respondent-State of Chhattisgarh through Respondent No. 3- Chief Engineer (Tender Cell), Public Works Department, floated a tender for construction of 4-Lane High Level Bridge across Arpa river in Bilaspur. It is not disputed that the Petitioner applied for the tender. The tender was submitted in two parts. The technical bid of the Petitioner was not opened because the Respondent-Department found that the Petitioner was a defaulter and therefore did not consider his case.
2. The case of the Petitioner is that on 16.09.2016, the Executive

Engineer, Public Works Department (Bridges) sent a letter including the name of the Petitioner in the list of defaulters. Pursuant to the letter dated 16.09.2016, the Department rejected the tender of the Petitioner. However, on 23.09.2016, the same officer sent another communication to the Chief Engineer that the name of the Petitioner had wrongly been included in the list of defaulters.

3. It is found that the letter dated 23.09.2016 was received before opening of the tender on 29.09.2016 but according to the Respondents, since there is no procedure to review the earlier decision of cancellation of the tender, the Petitioner's case could not be considered. Aggrieved by the aforesaid, the Petitioner is before this Court.

4. We are of the considered view that the Petitioner should not suffer because admittedly he is not at fault. The letter showing the Petitioner's name amongst the defaulters was issued by the Executive Engineer and within a week, the Executive Engineer sent another communication clearly stating that the name of the Petitioner should not have been in the list of defaulters. The tenders were opened on 29.09.2016. Before the tenders were opened, it was clear to the Respondent-Department that the Petitioner was not a defaulter.

5. We are of the view that the Respondent-Department itself should have recalled its earlier order rejecting the bid of the Petitioner. The Petitioner is not at fault and he cannot be allowed to suffer for the fault of the officer of the Respondent-Department.

6. In view of the above, the writ petition is allowed and we direct that the tender submitted by the Petitioner be opened and considered on competitive basis with the other tenders.

Sd/-
(Deepak Gupta)
Chief Justice

Sd/-
(Sanjay Agrawal)
Judge