

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) 1814 of 2016**

Poornendra Singh, S/o Raghvendra Singh, aged about 33 years, R/o 12/494
Near Irrigation Colony, Behind Dr. P. Tharwani, Shahdol (MP)

---- Petitioner**Versus**

1. South Eastern Coalfields Limited, through the Chairman-cum-Managing Director, South Eastern Coalfields Limited, Seepat Road, Bilaspur (CG)
2. Chief General Manager (E&M), South Eastern Coalfields Limited, J & K Area, Post Office Jamuna Colliery, District Anuppur (MP)
3. General Manager (E&M), South Eastern Coalfields Limited, J & K Area, Post Office Jamuna Colliery, District Anuppur (MP)
4. Bhupendra Travels, Lakheran Tola Budhar, District Shahdol (MP)

---- Respondents

For Petitioner	:	Shri Aditya Bhardwaj, Advocate
For Respondents 1 to 3	:	Shri Vivek Chopda, Advocate
For Respondent No. 4	:	Shri Sunil Otwani, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge

Order on Board**Per, Thottathil B. Radhakrishnan, Chief Justice****18/09/2017**

1. The Petitioner and the 4th Respondent competed in an e-tender process on the basis of Annexure-P/2 for making available vehicle on hire as is

described elaborately in the opening page of the e-tender notice dated 12.04.2016 which is Annexure-P/2.

2. The first issue attempted to be raised by the Petitioner, who was the second lowest tenderer, is that the 4th Respondent, who was lowest tenderer, could not have been awarded the work or considered as qualified in view of the fact that he did not provide due certificate of contract carriage, which, according to the Petitioner, is required in terms of Clause 8f(B).

3. Hearing the learned counsel for the Petitioner, the learned counsel for the 4th Respondent and the learned counsel for the Respondents 1 to 3 who have awarded the contract, it can be seen that the eligibility criteria of the tenderers is described in Clause 6 of Annexure-P/2. That does not even require that a particular vehicle has to be offered or that the offered vehicle should stand covered with due certification in terms of the provisions of the Motor Vehicles Act or in other law for the time being in force. The requirement is that the bidder should give an undertaking in the form of an affidavit in the prescribed format, to deploy required vehicle, as per the notice inviting tender, either owned or hired. Obviously, this means that a bidder can even hire a vehicle and make it available to satisfy his obligations under the contract. Pitted against this clause, is the provision that has been relied on by the Petitioner which is among those in clause 8 which relates to the modality of submissions of the bid. What is provided in clause 8f(B) is the status of bidders participating in the tender. That gets classified into 11 types. Depending upon the type of the status of the bidding, the 'cost to company' will be determined to reach at the lowest tenderer. This is available even at the foot of the said clause which provides a formula which will operate in relation to the bidders who have Cenvat credit or who do not claim Cenvat credit. That is not an eligibility criteria.

The challenge levied against the selection of the 4th Respondent, therefore fails.

4. The second issue on which the learned counsel for the Petitioner argued is that on the basis of qualifications it could be seen that the work has been awarded to the 4th Respondent for amounts different from what was quoted. To our query, the learned counsel for the Petitioner, quite politely, replied that the benchmark on competition will still tilt in favour of the 4th Respondent. That way also, the challenge against the grant of contract to the 4th Respondent fails.
5. For the aforesaid reasons, this petition is not eligible to succeed.
6. In the result, this petition is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge