

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (PIL) No. 60 of 2017**

M A Rizvi S/o Late G M Rizvi, aged about 45 years, R/o Ganjpara Ward No. 12, Balod, P.S.- Kotwali & Tahsil- Balod, Civil & Revenue District- Balod, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh through the Deputy Secretary, Public Works Department, Mantralaya, Capital Complex, Mahanadi Bhawan, Raipur, District- Raipur, Chhattisgarh
2. Engineer in Chief, Public Works Department, Sirpur Bhawan, Raipur, District- Raipur, Chhattisgarh
3. Chhattisgarh Road Development Corporation Limited (CRDCL) through Managing Director, 3rd Floor, Sirpur Bhawan Campus, Behind Akashwani, Civil Lines Raipur, District- Raipur, Chhattisgarh
4. M/s Shreeji Infrastructure India Pvt. Ltd. through Director, Office Address-513, Fifth Floor, Shubham Corporates, Ring Road No. 1, Near Railway Crossing, Telibandha, Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioner : Shri Sanjeev Banjare, Advocate

For Respondents/State: Shri A. S. Kachhwaha, Additional Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

12/04/2017

This writ petition is instituted as a Public Interest Litigation. We have heard the learned counsel for the Petitioner and the learned Additional Advocate General.

2. The Petitioner says that contrary to the directions of the superior authorities, the contract for construction of a road is confirmed in favour of the

4th respondent though there was only one bidder. It is the petitioner's case that in accordance with the order passed by the 1st respondent, in situations where there is only one bidder, the Establishment has to go for re-tender. In support of the petitioner's eligibility to institute a public interest litigation on the issues sought to be raised, the learned counsel for the petitioner relied on the judgment of the Apex Court in *State of HP Vs. Umed Ram Sharma*¹ to argue that the right to life under Article 21 of the Constitution includes the right to free movement and therefore, the availability of roads and quality of roads would also fall within the scope of Article 21 of the Constitution. We have no doubt that if the right to movement as would be referable to Article 21 have to be enforced, the roads have to be there; but that does not mean there could be a Public Interest Litigation in matters where the allegation is that there violation of orders and guidelines issued by superior authorities, in relation to awarding of contracts for construction of roads. Even if the petitioner has the right to claim that quality of roads has to be ensured, through the institution of Public Interest Litigation, he can only insist that quality roads have to be provided by the State. In the case in hand, the Establishment is undertaking due action to provide a road. That is the reason why it is awarded a contract to the 4th respondent. The question whether such contract should have been awarded to the 4th respondent and the further question as to whether there is any breach of any decision of the 1st respondent regarding award of contract to a single bidder, are the matters in realm of the competition in relation to award of contracts. That cannot generate a Public Interest Litigation, more particularly when the persons who could be competitors to the 4th respondent do not deserve any support of the extended limb of Article 226 of the Constitution of India in the form of the Public Interest Litigation which envisages pro bono support to the challenged

¹ (1986) 2 SCC 68

and needy sectors of the society. We are also not impressed to hold, on the facts of the case in hand, that instant case has to be considered as a public interest litigation on an assumed premise that the award of the contract to the 4th respondent is adverse to the interest of the exchequer.

3. In the aforesaid view of the matter, we do not find any ground to entertain this matter as a Public Interest Litigation. The writ petition is accordingly dismissed. We leave open issues relating to the quality control, expenditure control and audit through the concerned Department.

Sd/-
(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE