

HIGH COURT OF CHHATTISGARH, BILASPUR**Review Petition No. 88 of 2017**

(Arising out of order dated 18.07.2017 in Writ Petition (C) No. 1798 of 2017 of the learned Division Bench)

- Satwinder Singh Domir @ Satwinder Pal Singh Domir S/o Shri Uttam Singh Domir Aged About 36 Years R/o Chandela Nagar, M I G A 39, Mungeli, Tahsil Mungeli, District Mungeli, Chhattisgarh.

---- Petitioner

Versus

1. Chhattisgarh State Civil Supplies Corporation Limited Through Its Managing Director, Hitvad Bhawan, Awanti Vihar, Telibandha, Raipur, Tahsil Raipur, District Raipur, Chhattisgarh.
2. Tender Evaluation Committee Through The District Manager, Chhattisgarh State Civil Supplies Corporation Limited, Mungeli, Tahsil & District Mungeli, Chhattisgarh.
3. State Of Chhattisgarh Through Its Principal Secretary, Department Of Food, Civil Supplies & Consumer Protection, Govt. Of Chhattisgarh, Mantralaya, Naya Raipur Capital Complex, Tahsil Raipur, District Raipur, Chhattisgarh.
4. Dharmendra Kumar Waswani (Bidder In The Tender No. 17759 Base Depot- Mungeli) Through The District Manager Chhattisgarh State Civil Supplies Corporation Limited, Mungeli, Tahsil & District Mungeli, Chhattisgarh.
5. Jitendra Kumar Uppal (Bidder In The Tender No. 17759 Base Depot- Mungeli) Through The District Manager Chhattisgarh State Civil Supplies Corporation Limited, Mungeli, Tahsil & District Mungeli, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Rajkamal Singh, Advocate
For Respondents No.1 & 2	:	Shri N. K. Vyas, Advocate
For State/Respondent No.3	:	Shri U.N.S. Deo, Government Advocate

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

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

25.08.2017

1. We have heard the learned Counsel for the Petitioner in this application seeking review of order. We have also heard the standing counsel for the 1st Respondent – Corporation and the learned Government Advocate.

2. The order sought to be reviewed was delivered on 18.07.2017, that in relation to an annual contract for transport of food articles to the godowns of the Corporation.
3. The argument of the learned Counsel for the review Petitioner is that what has been found against the Petitioner through the order sought to be reviewed is essentially a curable defect and that this issue is covered by the judgment of the Delhi High Court in **Indian Oil Corporation Ltd. V. Kapil Bagri**; decided on 10.08.2015 in LPA 333/2014 & CM No. 7281/2014 and **ABC Beverages Private Limited V. Indian Railway Catering & Tourism Corporation (IRCTC) Ltd. and Ors.**; decided on 28.07.2017 in W.P.(C) 2785/2017 and CM Appl. 12049/2017. It is also argued that the case in hand appears to be one that is similar to Writ Petition (C) No.1715 of 2017 which has been ordered through Annexure/A-2 order adopting the procedure in Writ Petition (C) No. 1628 of 2016. The learned Counsel for the Petitioner further argued that the invitation of tender was confined to Mungeli Depot of the Corporation and therefore, there cannot be any situation of any of the parties acting on a mistake of fact as to the identity of the Depot. In that premise, it is argued that the defect regarding the Undertaking tendered by the Petitioner and contents thereof are curable and the Petitioner should have been given an opportunity to cure such defects and thereby sustain the technical bid.
4. The order sought to be reviewed was rendered more than a month ago. Even before the writ petition was filed, third party interest had intervened as is discernible from paragraph 3 of the order sought to be reviewed. There were two other Bidders who had reached the financial bid stage. Since they were equally placed on the financial bargain, the Corporation decided to award the work equally to both of them. They are stated to be carrying on those contractual works. In the domain of transport contracts, it would be imprudent to tinker with that situation now, through a judicial order. That position notwithstanding,

paragraph 4 of the impugned order discloses conscious consideration of the all relevant facts and factors and the quality of the Undertaking that the Petitioner had offered as a part of the contract document. Even if a different view is possible, it is not a matter that could be carried through the exercise of review jurisdiction. We are sitting in review of the order rendered in writ jurisdiction, that too touching the award of contract by a Government Company. The contours of review jurisdiction in terms of Section 114 and Order 47 of the CPC to the extent they apply to writ jurisdiction, prompt us that we don't visit the order sought to be reviewed. We do not therefore, find any ground to review the order rendered in Writ Petition No.1798 of 2017 on 18.07.2017. This application for review, therefore, fails.

5. In the result, this review petition is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge