

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1050 of 2017

Ashish Agrawal Son Of Shri Satyanarayan Agrawal, Aged About 35 Years
Proprietor- M/s Prateek Publicity, Suraj Kunj, Gudhiyari, Raipur And Resident Of
Gurunanak Chowk, Raipur, Civil & Revenue District Raipur, Chhattisgarh

---- Petitioner

Versus

1. The Municipal Corporation Raipur Through Its Commissioner, Municipal Corporation, Raipur (Chhattisgarh)
2. Commissioner, Municipal Corporation, Raipur, Chhattisgarh

---- Respondents

For Petitioners	:	Shri Sameer Uraon, Advocate
For Respondents	:	Shri H.B. Agrawal, Senior Advocate with Shri Pankaj Agrawal, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02/05/2017

Heard.

1. The petitioner has challenged the legality and validity of the communication dated 10.4.2017 by which petitioner's application for renewal has been rejected.
2. Learned counsel for the petitioner submits that under the agreement, the contract of installment of Mini Unipole ought to be renewed for further period of five years on the basis of better performance but this aspect was not examined by the respondent authorities and on extraneous considerations, the application has been rejected.
3. On the other hand, learned counsel for the respondents submits that even though the period of five years of the agreement expired on 13th July 2016, the petitioner did not apply for renewal and as late as on 10.8.2016, application for renewal was made. Since the petitioner had not removed Mini Unipole even after expiry of period of five years, the application was rejected.
4. It is not in dispute that the five years of initial period of agreement expired on

13.7.2016. the agreement does not provide as to when the application for renewal was required to be made. However, in the absence of there being any such specific provision, the petitioner was expected to act reasonably and apply for renewal before the expiry of the period of agreement i.e. before 13.7.2016 but it was not done by him. The petitioner applied for renewal only on 10.8.2016. Vide letter dated 7.12.2016, the petitioner was required to deposit the amount of Rs.86,016/- towards surcharge for delayed deposit of the amount payable under the agreement. The letter clearly stated that upon deposit of such amount, the petitioner application would be considered. The amount is said to be deposited by the petitioner on 31.1.2017, which is reflected from petitioner's letter dated 31.1.2017 (Annexure P-12). However, thereafter, the petitioner's application has been rejected only on the ground that petitioner had not removed the Mini Unipole after expiry of period of five years.

5. The agreement did not indicate as to when the application for renewal is to be filed. Though the petitioner ought to have filed application before the expiry of period of agreement, he filed application on 10.8.2016, which appears to have been condoned vide letter dated 7.12.2016. The only requirement was that if he deposits Rs.86,016/--, the application shall be considered. This amount was also deposited by the petitioner. Therefore, the petitioner's application should have been considered on merits i.e. based on performance and not any other consideration.
6. The rejection of petitioner's application, therefore, appears to be arbitrary. The respondents should consider the petitioner's application on his performance and pass a fresh order. The impugned order is accordingly set aside. At the same time, this Court is not inclined to protect the petitioner except to issue a direction to the respondent- Municipal Corporation to decide petitioner's application within a period of 60 days ,on merits.
7. It is also made clear that if the petitioner's Mini Unipole was operating after expiry of initial period of five years, it would be open for the respondent- Corporation to take appropriate charges from the petitioner.
8. The petition is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge