

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2963 of 2016**

M/s Siddharth Construction Through Proprietor Siddharth Chandrakar, Aged About 27 Years, S/o Shri Nand Chandrakar R/o Sukhsagar, Vidyut Nagar, Durg Civil & Revenue District Chhattisgarh

----Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Public Health Engineering, Mahanadi Bhavan, P.S. Rakhi, Naya Raipur, Civil & Revenue District Raipur Chhattisgarh
2. Executive Engineer, Public Health Engineering Division Durg, Civil & Revenue District Durg Chhattisgarh

-----Respondents

For Petitioner:	Shri Mayank Chandrakar, Advocate.
For Respondents/State:	Shri YS. Thakur, Additional Advocate General.

Hon'ble The Chief Justice**Hon'ble Shri Justice Sanjay Agrawal****Order on Board****Per Deepak Gupta, Chief Justice****19/1/2017**

1. The main challenge in this Writ Petition is to the condition in the contract providing the pre-qualification criteria.

2. Briefly stated, the facts of the case are that the Respondents issued a Notice Inviting Tender on 11.11.2016 inviting tender for laying down 5582 meters of 300 mm dia for Patan Piped Water Supply Scheme. One of the qualifying conditions of the tender is as follows:-

“that for pipes upto 200 mm dia, there is no qualifying criteria. For pipes above 200 mm dia, the qualifying criteria is that the bidder should have done work of at least 50% of the length of pipe with a minimum of 50% diameter pipes in one contract.

3. In this case, tender has been invited for 300 mm dia for a length of 5582 meters. Therefore, the bidder should have experience of laying down pipes of

275 meters of minimum 150 mm dia in one contract. The Petitioner submits that he has worked in various contracts of pipe line laying. According to the Petitioner, though he does not have sufficient experience in one contract, but if his experience of other contracts is also counted, then he fulfills the requirement of the bid document. This prayer cannot be accepted because the notice inviting tender clearly lays down that the experience should be in one contract.

4. On behalf of the Petitioner, it is submitted that for pipes of 200 mm dia, when no minimum experience has been laid, then there is no reason why similar policy should not be followed for 300mm dia pipes. It is also submitted that having experience in 150 mm dia pipes is immaterial.

5. We are not at all in agreement with this submission. It is for the person inviting tenders to lay down the conditions. Unless the conditions are arbitrary or totally irrelevant, the Court cannot interfere in this matter. The Departmental Officials are the experts to decide what sort of experience is required. The Department in its wisdom has thought where the pipe line is to be laid is less than 200 mm dia, previous experience may be irrelevant. However when the pipeline laid is more than 200 mm dia, then according to the Department, the bidder must have experience of laying down at least half of the length of the pipe line which is floated in the tender and the experience should be of not less than 50% diameter pipes.

6. This is a relevant consideration and cannot be said to be irrelevant. Therefore, we find no merits in this Petition, which is accordingly dismissed. Stay order passed earlier is vacated.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE