

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 3165 of 2016**

M/s Akul Devcon Private Limited Through : Partner Sandeep Singh, S/o Jitendra Pratap Singh, Aged About 33 Years, R/o Deviganj Road, Ambikapur, District Surguja (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Chief Secretary, Public Health And Engineering Department, Mahanadi Bhawan, New Mantralay, Raipur (Chhattisgarh)
2. The Engineer-In-Chief, Public Health Engineering Department District Raipur (Chhattisgarh)
3. The Chief Engineer, Public Health Engineering Department, Zone District Bilaspur (Chhattisgarh)
4. The Superintending Engineer, Public Health Engineering Department, Circle Ambikapur District Surguja (Chhattisgarh)
5. The Executive Engineer, P. H. E. Division, Surajpur, District Surajpur (Chhattisgarh)

---- Respondents

For Petitioner : Shri Apoorva Tripathi, Advocate.

For Respondent/State : Shri J.K. Gilda, Advocate General with
Shri A.S. Kachhawaha, Additional Advocate General.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Pritinker Diwaker, Judge.

Order on Board**Per Thottathil B. Radhakrishnan, Chief Justice****24/03/2017**

1. We have heard learned counsel for the Petitioner and the learned Advocate General.
2. The writ Petitioner responded in answer to the Notice Inviting Tender (hereinafter called 'the NIT') issued on 23.1.2016. According to the Petitioner, he

was the lowest bidder and had also revised his offers in terms of the demands of Respondent No.5. On 8.12.2016, a fresh NIT was issued as a second call. He challenges that. Amongst the reliefs sought for in the writ petition, he has sought that the NIT No.39 floated on 8.12.2016 be cancelled and also to set aside the cancellation of NIT No.63 dated 23.1.2016. The latter event which is impeached is the cancellation of NIT No.63. It is the admitted situation that thereafter a fresh NIT was issued. That fact was brought on record by the Petitioner through additional documents.

3. We record the submission of the learned counsel for the Petitioner that the subsequent bids of the Petitioner have been opened and the present judgment has not impact on those bids.

4. Under such circumstances, we are of the view that in matters of such nature, the recourse open in commercial litigation relating to tenders would be to agitate on the presently available tender. Hence, without expressing anything on the merits of the claims of the Petitioner and leaving open all the issues including the ground of arbitrariness, malice and malafides, we close this writ petition without prejudicing the rights of the Petitioner to seek remedies in relation to the NIT which is now in force, in accordance with law, for appropriate decisions.

5. The writ petition accordingly stands disposed of.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Pritinker Diwaker)
JUDGE