

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 89 of 2018

Thakur Construction A Proprietorship Through Its Proprietor Anshul Singh Thakur, Son Of Late G. S. Thakur Aged About 34 Years R/o Adarsh Colony, Old High Court Road, Thana City Kotwali, Tehsil And District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Tribal Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh.
2. The District Collector Cum President, District Mineral And Mining Trust, District Janjgir- Champa, Chhattisgarh.
3. The Chief Executive Officer, Zila Panchayat, Janjgir- Champa, Chhattisgarh.
4. Assistant Commissioner (Office Of Collector), Department Of Tribal Welfare, District Janjgir- Champa, Chhattisgarh.

---- Respondents

Shri Rahul Jha, counsel for the petitioner/s.
Shri Prafull Bharat, Addl. A.G. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Shri Justice Sanjay Agrawal

Order On Board

12/01/2018

This petition has been filed by the petitioner assailing correctness and validity of order dated 11/12/2017 by which, tender process has been cancelled.

2. Learned counsel for the petitioner would submit that giving undue weightage to minor irregularities committed in the process of tender, tender process has been cancelled. Learned counsel for the petitioner submits that according to the information of the petitioner, tender was not published in one of the news paper but it was published in three new papers and about 15 bidders have participated. He would also submit that the other irregularity pointed out is that in case of value of work exceeding Rs.10 lakhs, time limit has to be 30 days for invitation of tender. This was also violated. However, he submits that it was only a minor and

insignificant irregularity.

3. State counsel would submit that the tender process was required to be cancelled because certain complaints were received regarding irregularities committed. Learned State counsel submits that the two irregularities relating to non-publication of tender in required number of news papers and not granting 30 days' time for submission of tender, is sufficient and relevant for the purposes of arriving at the decision to cancel the tender.

4. Present is a case where the entire tender process has been cancelled. The reasons assigned for cancellation of tender were that the tender notice was not published in required number of news papers and secondly that, time stipulation as provided in clause 4.5 of the tender was also not followed.

5. In our considered opinion, the two reasons for cancellation of tender are quite relevant and cannot be said to be extraneous or irrelevant. Applying the principles laid down in the case of **Tata Cellular v. Union of India, 1994 SCC (6) 651**, we are of the considered view that the decision making process does not suffer from arbitrariness, irrationality or procedural defect so as to warrant interference by this Court under Article 226 of the Constitution of India, more so when the matter relates to construction of certain hostel by the State. The petitioner, in any case, would be entitled to again participate, as and when fresh tender is issued. The petition is accordingly dismissed in limine.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge

Sd/-
(**Sanjay Agrawal**)
Judge