

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 161 of 2018**

- M/s R.P.G. Infrastructure, Through – Its Proprietor Shri Rajneesh Panigrahi, S/o F.N. Panigrahi, aged about 40 years, Bhairamdev Ward, Jagdalpur, Bastar (Chhattisgarh)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Public Health and Engineering Department, Mahanadi Bhawan, New Raipur (C.G.)
2. Engineer in Chief, Public Health and Engineering Department, Neer Bhawan, Civil Lines, Raipur (C.G.)
3. Executive Engineer, Public Health and Engineering Department, Division – Bijapur, District – Bijapur (C.G.)
4. Rupesh Kumar Jha, S/o Brij Bihari Jha, aged about 40 years, R/o Old Geedam Naka, Ganga Nagar Ward No.23, Jagdalpur, District – Bastar (C.G.)

---- Respondents

For Petitioner	:	Shri Sourabh Dangi, Advocate.
For Respondent Nos.1 to 3	:	Shri J.K. Gilda, Advocate General.
For Respondent No.4	:	Shri Prafull N. Bharat, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Justice Prashant Kumar Mishra****Order on Board****Per Ajay Kumar Tripathi, Chief Justice****31.07.2018**

1. Though an amendment application has been allowed vide order dated 21.02.2018, but on hearing the matter in entirety, we are of the considered view that the amendment which have been prayed for and sought to be incorporated in the main writ application clubs two diverse kinds of reliefs into one writ application. Originally, the writ application was filed in relation to non-grant of a tender or rejection of tender. Now, the action which is contemplated or which is

sought to be raised is non-performance of previous contracts which are one of the reasons for rejection of the present tender, cannot be clubbed and decided in the present writ application as they are two different cause of actions.

2. The amendment application, to that extent is required to be rejected on reconsideration of the totality of the matter. The said issue which was sought to be challenged through the amendment can be assailed in yet another proceeding. Rejection of the amendment application will not come in the way.
3. Petitioner is a partnership firm. His bid pursuant to NIT dated 16.10.2017, on evaluation, has been rejected by the competent authority. From the order of rejection, a copy of which is annexed and brought on record as Annexure R/4, it seems that the Petitioner was granted two other tenders for construction of RCC intake well with certain drawing, design and specifications. Those contracts have not been completed till date. Besides in the tender document, category to which the Petitioner belongs by virtue of the registration with the competent authority has been mis-declared.
4. The explanation or submissions of the counsel for the Petitioner is that so far as the previous tenders are concerned, there were certain issues and reasons and despite cancellation, the matter is under reconsideration. But that is neither here nor there. So far as, the issue of mis-declaration is concerned, that is sought to be explained away that it was a clerical mistake made by the Petitioner.
5. The submission of clerical mistake is too simple an explanation keeping in mind that the Petitioner is an old contractor and he already has many contracts in his hand. Therefore, they must have been an object and reason for doing so in mis-declaration which is now sought to be explained as a clerical error.

6. The reasons for rejection of the NIT are valid reasons as noted above and they cannot be said to be either irrational or arbitrary. The failure to perform contract as well as comply with the rightful declarations in the NIT are integral to either acceptance or rejection of the NIT.
7. The writ application has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Prashant Kumar Mishra)
Judge