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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petitioner (Civil) No. 845 of 2017**

- Jitendra Kumar Thakur, Aged about 42 years, S/o Shri D.S. Thakur, Occupation Civil Engineer and 'B' Class Civil Contractor, R/o 203, Golden Oak, Green Garden Colony, Mangla, Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. Municipal Corporation, Bilaspur, Through Commissioner, Municipal Corporation, Vikas Bhawan, Nehru Chowk, Police Station – Civil Lines, Tehsil and District Bilaspur, Chhattisgarh.
2. The Commissioner, Municipal Corporation, Bilaspur, Vikas Bhawan, Nehru Chowk, Police Station – Civil Lines, Tehsil and District Bilaspur, Chhattisgarh.
3. Executive Engineer, Municipal Corporation, Bilaspur, Vikas Bhawan, Nehru Chowk, Police Station – Civil Lines, Tehsil and District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Smt. Anubhuti Marhas, Advocate.
For Respondents	:	Shri B.L. Sahu, Advocate appears on behalf of Shri A.S. Kachhawaha, Advocate.

Hon'ble Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice Sharad Kumar Gupta****Order on Board****Per Thottathil B. Radhakrishnan, Chief Justice****01.05.2018**

1. We have heard the learned counsel for the Petitioner and the learned counsel for the Respondents. The 1st Respondent – Bilaspur, Corporation invited online tender for award of contract for construction of rooms at Government Higher Secondary School, Shankar Nagar with an estimated cost of Rs.29.79/- lakhs. It is submitted that the Petitioner had quoted at Rs.25 lakhs.
2. The work was admittedly awarded to the Petitioner. However, thereafter, the work order was cancelled that led to the institution of the writ petition. The interlocutory order issued by this Court at the stage of admission, that continues.

3. From the return (reply) filed by the Respondents, it is seen that three persons including the Petitioner had responded to the NIT. Nitin Singh and Kaushal Namdeo did not succeed since their tender documents were not accepted. Going by the statement of the Respondents themselves, it is clear that the documents of the Petitioner were verified and the work was awarded to the Petitioner on the basis of the conscious decision by the committee concerned. We extract paragraph 8 of the return of the Respondent which is to the following effect :

“8. It is submitted that before opening of the bids, documents submitted by the bidders were verified and undisputedly the documents submitted by the petitioner were found to be correct and the documents of remaining 2 bidders were found to be incorrect as per the terms and conditions of the NIT and accordingly the said 2 bidders were rejected and the petitioner was only the qualified bidder. Thus, there was only single bid which was of the petitioner. Since there was only single bid which was of the petitioner and therefore, the bid of the petitioner ought not have been opened, but, the scrutiny committee on seeing the rates and status of the bidders, who have given tender that there is no competition, the scrutiny committee has found the petitioner being L-1 and accordingly the rates offered by the petitioner have been placed before the tender committee has approved the rates offered by the petitioner and accordingly the petitioner was awarded the work order on 09.03.2017.”

4. The impugned action is taken on the basis of a newspaper report saying that the work has been awarded to an unqualified contractor. What has been done is that a committee was thereafter constituted and it was found that the work was awarded to the Petitioner. Though, he was the only qualified tenderer and, therefore, he was treated single after all administrative discipline necessary accepts. The Corporation and its officer to have scrupulously carried out and discharge their duties and responsibilities while dealing with such contract. There is no complaint about the Petitioner's eligibility of the qualification. There is no allegation though he was found to be the lowest tenderer though he was only qualified tenderer. The cancellation of the tender was put on hold by this Court through the interlocutory order issued on 04.04.2017. This interlocutory

order was repeatedly extended and it was also clarified by this Court on 22.11.2017 that the order impugned issued in the writ petition did not prevent the Respondents from permitting the Petitioner to continue with the work, if the Respondents choose to do so. That order was issued specifically recording that it is issued having regard to the public interest involved. Yet, the Corporation officials in their wisdom did not permit the Petitioner to carry out the work.

5. We do not find any valid and sustainable reasons on the face of the condition of the contract which would enable the Corporation to cancel the contract awarded to the Petitioner. We are also wholly dissatisfied with the fact that the Respondents showed scant respect to the interlocutory order issued in public interest to enable the school building. This is over and above the fact that even according to the Corporation, it had not processed the files duly. We are of the view that the Petitioner is entitled to succeed especially when there is no denial of facts that the Petitioner had commenced the work and is not charged with any deficiency in having carried the work.
6. For the aforesaid reasons, this writ petition is ordered quashing the impugned order and directing that the Respondents shall permit the Petitioner to carry out the work in terms of original work order issued to him. It is further directed that the period of time from the order impugned in this writ petition till the date of receipt of copy of this order shall be treated as additional period for the Petitioner to carry out the work. We hope and trust that the Corporation would treat this judgment for requisite guidance, if needed, for proper governance of that Local Self Government Institution.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge