

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1536 of 2018**

Mahamaya Constructions Through- Its Proprietor Sandeep Rungta, S/o Late G. R. Rungta, Aged About 46 Years, Office- Mahamaya Construction, Raipur 231, 2nd Floor, Risabh Complex M. G. Road, Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Public Health Engineering, Mahanadi Bhavan, Mantralaya, New Raipur, Chhattisgarh.
2. Engineer-In-Chief, Department Of Public Health Engineering, Indrawati Bhavan, Naya Raipur, Chhattisgarh.
3. Chief Engineer, Department Of Public Health Engineering, Raipur Zone, Raipur, Chhattisgarh.
4. Superintending Engineer, Public Health Engineering Department, Engineering Department, Raipur Circle, Raipur, Chhattisgarh.
5. Executive Engineer, Public Health Engineering Department, Division Korba, District Korba, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Avinash Chand Sahu, Advocate.
For Respondent/State	: Shri UNS Deo, Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****02/11/2018****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard counsel for the parties.
2. Vide Annexure P/1 dated 23.05.2018, Petitioner was informed that his Part-I (Envelope B) i.e. Techno-commercial evaluation has been rejected as it had failed the eligibility criteria.
3. Annexure P/1 was an auto-generated reply from the portal, therefore, the Court wanted further clarity as to what was the failure all about, which made the Petitioner ineligible in relation to the contract.
4. Stand of the State is that in terms of the NIT, Envelope "B" was supposed to provide certain details. So far as we are concerned, in the present dispute, it is Clause II sub-clause (1), which is of significance:-

“II. All the Tenders are required to submit Envelope “B” Online containing the followings:

1. Experience certificate of successful completion of work of same nature in contractor's/firm's/company's own name indicating agreement no., work order no. and date, amount of contract, stipulated period of completion, & actual period of completion during last five financial year i.e. 2013-2014 to 2017-2018. The certificate should be issued by an officer not below the rank of executive engineer.”

5. It is pointed out to the Court that as page 52 of the writ application, the Petitioner has annexed a certificate. This is to certify that one M/s. D.P. Construction, Nagpur has successfully completed certain work. The details provide the cost of the tender, accepted cost and the cost of completion. But it does not indicate the stipulated period of completion and the actual period of completion, therefore, the certificate of experience does not meet the requirements of the NIT. In this case, the certifying authority is an Executive Engineer, therefore, there is no dispute that he was not the competent authority, who was required to issue such a certificate.

6. From a reading of said certificate of experience, it is evident that the two ingredients i.e. the stipulated period of completion and actual period of completion is not emerging. So far as certificate having been issued in the name of M/s. D.P. Construction, Nagpur is concerned, the Court is informed that there is a joint venture agreement between said company and the Petitioner. That aspect of the matter is not required to be gone into.

7. However, in totality, since the certificate of experience lacks the two ingredients as talked about earlier, the reason of rejection of Envelope “B” is neither irrational nor arbitrary.

8. Writ has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE