

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2716 of 2017**

- M/s Ramniwas Poddar Through Its Partner Mr. Sundeep Poddar, S/o Shri Kehsav Kumar Poddar, Aged 30 Years, Lila Kunj Vivekanand Chowk Post Manendragarh District Korea Chhattisgarh 497442, Chhattisgarh

---- Petitioner

Versus

1. Municipal Corporation Chirmiri Through The Commissioner, Chirmiri, District Korea Chhattisgarh
2. State Of Chhattisgarh Through Secretary, Department Of Urban Development And Administration, Mahanadi Bhawan, Post Rakhi, Naya Raipur, Raipur Chhattisgarh.

---- Respondents

For Petitioner : Shri Kshitij Sharma, Advocate

For Respondent No.1 : Shri HB Agrawal, Sr. Advocate with Shri Pankaj Agrawal, Advocate

For Respondent No.2/State: Shri UNS Deo, Govt. Advocate

DB: Hon'ble Shri Justice Prashant Kumar Mishra &

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

Per Prashant Kumar Mishra, J

25.04.2018.

1. Heard.
2. The petitioner was awarded contract by Municipal Corporation, Chirmiri for construction of road. At the time of execution of contract, service rendered by the petitioner in the form of construction of road was exempted from payment of Service Tax. However, since after July 2017, the Goods and Services Tax (GST) has been substituted in place of Service Tax, but no exemption from payment of GST is provided in the new tax regime. The petitioner, fearing loss in the business, if compelled to make payment of GST,

did not execute the contract. Therefore, by order (Annexure - P/1), the Corporation has terminated the contract, black listed the petitioner and forfeited the earnest money deposited.

3. Vide interim order dated 13.10.2017, this Court stayed the impugned order (Annexure-P/1) and thereafter on 22.01.2018 this Court directed that the petitioner will be given an opportunity of personal hearing by the Commissioner and the outcome of such hearing will be placed on record by the Municipal Corporation. The Corporation has submitted the outcome of hearing in form of report in which the respondent has agreed to withdraw the impugned order and refund the amount of GST, which the petitioner will pay to the appropriate Government, subject to submission of proof of payment of GST by the petitioner.

4. In view of the decision taken by the Corporation, submitted before this Court in the form of report, impugned order (Annexure-P/1) is quashed as the same has been rendered ineffective by the Municipal Corporation itself.

5. It is expected of the petitioner that it shall now proceed to execute the contract for the welfare of the Public on emergent basis subject to all the required cooperation by the Municipal Corporation.

Sd/-

Judge

(Prashant Kumar Mishra)

Sd/-

Judge

(Ram Prasanna Sharma)