

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 639 of 2013**

- International Commerce Limited S/o Late R.L. Lakhotia Aged About 49 Years R/o 13-14 Light Industrial Area ,P.S. Jamul Bhilai C.G

---- Petitioner**Versus**

- Government of India, Ministry of Steel, through its Secretary Udyog Bhawan, New Delhi - 110001
- Steel Authority Of India Limited, through its Chairmam Incorporated Under The India Copanies Act,1956 Having Its Registered Office As Ispat Bhawan Lodhi Raod New Delhi.
- Govt. of India, Deptt. of Public Enterprise, through its Secretary Block -14 C.G.O.Complex Lodhi Raod, New Delhi-110003
- Steel Authority of India Limited Bhilai Steel Plant, Though Its Chief Executive Officer Bhilai Distt. Durg C.G.
- Ferro Scrap Nigam Limited, through its Managing Director, FSNL Bhawan, Equipment Chowk Central Avenue ,post Box No. -37 Bhilai Distt Durg C.G.
- Rashtriya Ispat Nigam Lited, through its Managing Director, Main Administrative Building Visakhapatnam Steel Plant, Visakhapatnam - 530031

---- Respondents

For Petitioner	:	Shri Ashish Shrivastava, Advocate
For Respondents No.1 & 3	:	Shri B. Gopa Kumar, Assistant Solicitor General and Shri N.K. Vyas, Advocate
For Respondents No. 2 & 4	:	Dr. N.K. Shukla, Senior Advocate assisted by Shri Vikram Sharma and Shri Ajay Lakra, Advocates

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Justice Pritinker Diwaker****Order on Board****Per, Ajay Kumar Tripathi, Chief Justice****11.07.2018**

1. Heard the counsel for the parties.
2. Writ application was preferred by the Petitioner primarily aimed at forcing the hands of Steel Authority of India Limited, hereinafter referred to as 'SAIL' to go for open tender in matter of award of work of "handling and processing of slag and recovery/processing of metallic scrap from slag"

instead of adopting nomination basis and award of work in favour of Ferro Scrap Nigam Limited, hereinafter referred to as 'FSNL' a Government of India Corporation set up way back in the year 1979 with the object of handling and processing of slags generated by various steel plants.

3. Since most of the units of SAIL have been assigning the work of handling and processing of slag on nomination basis by awarding the contract or responsibility upon FSNL, many private companies have been kept out of the loop. A legal battle was started trying to open up the work and give an opportunity to even private companies or contractors to handle the work in question.
4. The present petitioner is one of those persons who wants to have a share in the pie of handling of slag. The main area of thrust is focused on Bhilai Steel Plant, hereinafter referred to as 'BSP', which has been granting contract on nomination basis to FSNL instead of going for open tender.
5. The writ application was filed way back in the year 2013. This issue has been debated at various level and also reviewed by authorities such as the CVC, the Government of India as well as SAIL in relation to award of contract on nomination basis.
6. While the matter was being heard and argued in quite a detail, our attention has been drawn to the decision taken by the SAIL whereon on 13.07.2012 they decided to extend an invitation for expression of interest from reputed Indian and overseas agencies for handling and

processing of slag and recovery/processing of metallic scrap from slag by using modern and latest technologies.

7. This invitation issued by the SAIL itself is an indication that SAIL as an entity has decided to go for open bidding and therefore nomination is not only a method or methodology which is being followed by the units of SAIL with regard to handling of slags and its processing.
8. The Petitioner to that extent has succeeded and we do not have to decide whether there is necessity to go for open bidding instead of nomination methodology, adopted earlier.
9. Counsel for the Petitioner has been very fair in informing us that some of the other units of SAIL like Durgapur Steel Plant and Bokaro Steel Plant, Rourkela have gone for open bidding, but so far as BSP is concerned, they continue to award the work on nomination basis to FSNL and in this regard on 02.05.2018 they have entered into a memorandum of understanding between SAIL and FSNL.
10. The writ application in the above circumstances succeeds because the Petitioner has been able to open the door for participating due to open expression of interest which is being adopted by SAIL for handling of slag.
11. The counsel for the Petitioner, however, is aggrieved by the authorities of BSP because they have not fallen in line and continue to adopt the nomination method for award of contract. His area of concern or of interest is BSP, in specific.

12. So far as BSP is concerned, we are not willing to go into the circumstances under which they have taken a decision to enter into a memorandum of understanding with FSNL, but for this Petitioner has either remedy in law or is free to approach the Chairman of SAIL or the Secretary, Ministry of Steel, Government of India, as the case may be, by bringing to their notice that for some reason or other, BSP is not willing to go by the directives or policy decision taken by the headquarter, who have in principle decided to go for open tender.
13. The writ application stands disposed of in terms of above as well as the opportunity so granted.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Pritinker Diwaker)
Judge