

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2331 of 2018**

- Alok Shivhare, aged about 50 years, S/o Late G.P. Shivhare, Managing Director, M/s Alok Buildtech Private Limited, Its Registered office at 10, Kadambari Nagar, Durg, Tehsil and District Durg, Chhattisgarh, 491001

---- **Petitioner****Versus**

1. State of Chhattisgarh, Through Secretary, Public Works Department, Mantralaya, Naya Raipur, Tehsil Revenue & Civil District Raipur (C.G.)
2. Engineer in Chief, Public Work Department, Office of the Engineer in Chief, Public Work Department, Naya Raipur, Tehsil, Revenue and Civil, District Raipur (C.G.)
3. Chief Engineer (Tender Cell), Public Work Department, Office of the Engineer in Chief, Public Work Department, Naya Raipur, Tehsil, Revenue and Civil, District Raipur (C.G.)

---- **Respondents**

For Petitioner : Shri Rupesh Shrivastava, Advocate.

For Respondents/State : Shri Prafull N. Bharat, Additional Advocate General.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

Per Ajay Kumar Tripathi, Chief Justice

20.08.2018

1. Basically two prayers have been made in this writ application. First contention is that the previous work experience gained by the Petitioner as a partner of a partnership firm, which has now finally been converted into a private limited company should be taken for the purposes of considering experience for the tender in question.
2. Learned Additional Advocate General representing the State opposing such a stand submits that such a prayer cannot be accepted keeping in view a Division Bench decision which has been rendered by this High Court in **AIR 2017 Chh 38** which is the case of **Shailendra Bahadur Singh Vs. State of Chhattisgarh & Others**. Attention of this Court has been drawn to paragraph 16 of the said judgment which reads as under:

“16. It is for the person floating the tender to decide what should be the conditions laid down. In this case, the condition which was laid down is that the experience should be in the same name and style. The Petitioner who is a Government contractor, knowing this condition submitted the tender without challenging the tender condition. Even till now, the condition in the tender has not been challenged. The tender condition is clear that the work should have been done in the same name and style. This tender condition having not been challenged, has to govern the contract and since the experience claimed by the Petitioner as partner of M/s. Balaji Infrastructure is not in the same name and style as the tenderer (Shailendra Bahadur Singh), the previous experience cannot be taken into consideration.”

3. The second line of submission of the counsel for the Petitioner is that some of the terms and conditions which are coming in the way of the present Petitioner in regard to the present NIT is required to be modified by the State Government, if not, this department, which is the department of P.W.D. since other departments of the State Government have brought about certain changes to the terms and conditions with regard to pre-qualifying bids and the experience in terms of volume of work.
4. This submission is made on the ground that there should be uniformity in NITs which are issued by the State of Chhattisgarh.
5. Even this question or submission made at the Bar on behalf of the Petitioner stands answered by the decision of the Division Bench as observed in paragraph 16 of **Shailendra Bahadur Singh** (supra).
6. The writ application has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge