

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2398 of 2018**

- Maa Bhagwati Construction, A-Class Contractor, a partnership firm having its office at G.S. No.39, CLC Plaza, Mangla Chowk, Bilaspur (C.G.) through its partner Parul Kumar Rai, S/o Rajesh Kumar Rai, aged about 33 years, R/o Flat No.107, first floor, Vaishali Pride, Minocha Colony, Bilaspur (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Department of Public Works, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
2. Engineer-in-Chief, Public Works Department, Nirman Bhawan, First Floor, Sector – 19, Naya Raipur (C.G.)
3. Chief Engineer, Central Tender Sale, Office of Engineer-in-Chief, Public Works Department, Nirman Bhawan, First Floor, Sector – 19, Naya Raipur (C.G.)
4. Aaditya Construction, a Partnership Firm having its office at Korba (C.G.)

---- Respondents

For Petitioner	:	Shri Malay Shrivastava, Advocate.
For Respondents/State	:	Shri Prasun Bhaduri, Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****Per Ajay Kumar Tripathi, Chief Justice****29.10.2018**

1. Award of work to the 'L-1' for construction of Uslapur to Daija road in terms of Annexure P/1 dated 09.08.2018 has been challenged in the present writ application by the Petitioner. His grievances that despite fulfilling the eligibility, his technical bid was not opened on a spacious kind of ground that he did not have the requisite work experience or the details thereof has not been stated in so many terms in the format, copy of which is Annexure P/4 dated 04.07.2018.

2. Annexure P/4 is part of the NIT as Annexure 2 thereto. Information regarding minimum one similar work performed by the prime contractor was required to be given.
3. Argument of the counsel for the Petitioner is that the construction work done by them included construction of approach road and certification thereto have been given by the Executive Engineer, PWD. He also goes to the extent that for similar kind of experience or even construction of a boundary wall contract has been awarded to the 'L-1', therefore, it's a case of discrimination.
4. We have examined the NIT. In the qualification criteria, a copy of which has been annexed by the Petitioner himself and is available on page 20 of the writ application, Clause (iii) to the note of Clause 1 clearly states in bold letters that similar work means 'road works'.
5. From look at Annexure P/4, it is evident that the primary work performed by the Petitioner was construction of a composite District Office at Mungeli. It included one part of construction of an approach road. The contract in no way can be said to mean a work carried out for construction of a road.
6. Since the NIT primarily is for construction of road over a length of 10 Km between Uslapur to Daija road, the decision of the Respondents of the PWD department, therefore, not to risk award of such tender contrary to the terms and conditions of the contract cannot be said to be irrational or arbitrary decision. Obviously, Petitioner has tried to make out a case when he had none in the very beginning.
7. The writ has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge