

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WPC No. 204 of 2019

Ghanshyam Maradiya S/o Shri Premji Bhai Maradiya Aged About 52 Years
 Director M/s Classic Network Pvt. Ltd, 202, Arpan Complex, Opp. Swaminarayan
 Mandir, Kalawada Road, Rajkot, District- Rajkot Gujrat, Civil And Revenue District-
 Rajkot (Gujrat) 360001

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Public Works Department, Atal Nagar, Mahanadi Bhavan, New Raipur, Chhattisgarh.
2. The Project Director, Chhattisgarh Road Connectivity Project (ADB Project), CG State Sector Project, Public Works Department, Sirpur Bhavan, Raipur, Chhattisgarh.

---- **Respondents**

For Petitioner	: Shri Manoj Kumar Sinha, Advocate.
For Respondent/State	: Smt. Fouzia Mirza, Additional Advocate General.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

15/03/2019

Per Ajay Kumar Tripathi, Chief Justice

1. Heard counsel for the parties.
2. The Asian Development Bank (hereinafter referred to as the 'ADB') has sanctioned certain loans to the State of Chhattisgarh to provide road connectivity in certain areas identified by them. In this regard, they themselves have invited bids, details of which has been brought on record as Annexure P/1 by the Petitioner himself.
3. Petitioner is one of the bidders for the contract package named Rehabilitation and Upgrading of Bakaruma Lailunga Road (Package 24). His bid however has been determined as non-responsive and therefore, the writ application has been filed.

4. Though on the previous occasion, the State was directed to seek instruction and file their response, they have not filed a formal return for a reason that invitation for the bids have not been issued by the State authorities. They are only a coordinating authority. It is an out and out Asian Development Bank project and all decisions are taken at their head office at Manila.

5. On the basis of the response given by the various bidders, the State authorities can only provide the basic result of the submissions of the bids, but other details they cannot because the section in relation to instruction to bidders clearly mandates in Clause 26 as under:-

- “26. Confidentiality**
- 26.1 Information relating to the examination, evaluation, comparison, and postqualification of Bids and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until information on the Contract award is communicated to all Bidders.
 - 26.2 Any attempt by a Bidder to influence the Employer in the evaluation of the Bids or Contract award decisions may result in the rejection of its Bid
 - 26.3 Notwithstanding ITB 26.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to the bidding process, it may do so in writing.”

6. However, the State counsel for the purposes of the satisfying the Court did produce certain documents, which seems to be the reason as to why the bid of the Petitioner was treated to be non-responsive and a look at the same satisfies this Court that they were inadequacies on the part of the Petitioner himself for making his bid unresponsive.

7. The ADB is not a party here in the writ petition. The terms and conditions of the invitation of the bids are known to the Petitioner because he himself annexed

the same as Annexure P/1. He has to therefore await the finalization of the bids and then may be take recourse as may be advised in terms of the instructions which are available to the bidders including Clause-26.

8. Writ has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE

Yogesh