

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1057 of 2019**

Vineet Bhargav S/o Late Shri Devendradutt Bhargav Aged About 49 Years
Occupation- Government Contractor, R/o House Ho D--20, Ratanagiri, Raisen
Road, Bhopal, Madhya Pradesh.

---- Petitioner**Versus**

1. Union of India Through The Secretary, Road Transport And National Highway, Mantralaya, Transport Nagar, Sansad Marg, New Delhi. (India).
2. Chief Engineer (Zone-4) Road Transport And National Highway, Mantralaya, Transport Nagar, Sansad Marg, New Delhi. (India).
3. Chief Engineer P.W.D. National Highway Zone, Raipur, Chhattisgarh, Pension Bada Raipur, Chhattisgarh.
4. State Of Chhattisgarh Through The Secretary, Department Of P.W.D. Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur, District- Raipur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Shashank Thakur, Advocate.
For Respondents No. 1 to 3	: Shri B.Gopa Kumar, Assistant Solicitor General
For Respondent No. 4/State	: Shri Siddharth Dubey, Deputy Government Advocate

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Prashant Kumar Mishra, Judge

Order on Board**Per P.R. Ramachandra Menon, Chief Justice****10/05/2019**

1. The Petitioner has moved this Court with the following prayers:

"10.1 That this Hon'ble Court may kindly be pleased to issue appropriate writ/order to set aside decision dated 01.03.2019 (Annexure P/1) taken by Respondents upon the representation of the petitioner;

10.2 That, this Hon'ble Court may kindly be pleased to issue appropriate writ/order to quash the invitation of RFP (NIT) dated 12.12.2018 (Annexure P/2) issued by Respondent No. 3;

10.3 That, the Hon'ble Court may kindly be pleased to direct the respondents to issue fresh

invitation of RFP (NIT) for collection of User Fee through Fee Collecting Agency on the basis of competitive bidding on E-Tender basis at Kumhari Toll Plaza at 285/2 of Raipur-Durg Four Lane section from KM 281.00 to 307.600 of NH 006 (New NH53) in the State of Chhattisgarh by properly calculating 'Yearly Potential Collection' which is also known as 'APC';

10.4 That, this Hon'ble Court may kindly be pleased to grant any other relief as it may deems fit and appropriate."

2. When the matter is taken up for consideration, the learned Deputy Government Advocate submits, on the basis of instructions received, that by virtue of the fact that currency of H1 bid has elapsed, the Government does not propose to proceed with the tender which is the subject matter of challenge in this writ petition.
3. It is further stated that for the time being, the National Highway Authority of India is going to take over the collection of toll and appropriate arrangements will be made with regard to the further course of action. It is stated that the cause of action does not survive.
4. The above submission is made with reference to the letter dated 09.05.2019 issued by the Ministry of Road Transport and Highways as to the further course of action, a copy of which is placed for our perusal. The said letter addressed to the Chief Engineer (NH), PWD, Raipur, Chhattisgarh, reads as follows :

"No.12027/12/2010-CG/Part-Zone-4

Government of India

**Ministry of Road Transport & Highways
(Zone-IV Section)**

Transport Bhawan, 1, Parliament Street, New Delhi-110001

Dated:09.05.2019

To,
Chief Engineer (NH),
PWD, Raipur,
Chhattisgarh

Sub: - Acceptance of H1 bid for toll collection at Kumhari Toll Plaza at km.28572 of Raipur-Durg four lane section from km. 281.00 to 307.600 of NH 006 (New NH53) in the State of Chhattisgarh.

Sir,

Kindly refer to letter no. 31/CE/NH/TC/44-05/2018/II dated 30.01.2019 requesting acceptance of H1 bid amounting to Rs 19,57,77,777.00. The proposal has been examined and with the approval of competent authority it is directed that guidelines/ standard operating procedure stated in Ministry's circular no. NH-15017/5/2019-P&M dated 07.03.2019 (copy enclosed) may kindly be followed. Accordingly, following actions as stated in Ministry's circular no. NH-15017/5/2019-P&M dated 07.03.2019 may kindly be taken immediately:-

(i) A draft user fee notification may kindly be prepared clearly specifying NHA as a Toll collection agency, the same shall be submitted within one week period to Ministry through Regional Officers for approval of competent authority.

(ii) Upon successful processing of user fee notification, the user fee plaza under consideration would be handed over to NHA for management for tolling. NHA shall be informed well in advance regarding the above action being taken up by State PWD.

(iii) The above bid was valid upto 06.05.2019 only as per bid validity submitted by bidder. Since, recommendation of CE(NH) for acceptance of bid has not been approved by competent authority, the ongoing bidding process may be annulled.

Yours Faithfully

Sd/-

P. K. Mourya

Superintendent Engineer (Zone-IV)

For Director General (Road Development) & SS

Copy To:

(i) Regional Officer MoRTH, Raipur, Chhattisgarh with a request to ensure the compliance of para (i) above & submit draft toll notification latest by 15.05.19 positively.

(ii) Chairman, NHA {Kind Attn. CGM, Toll, NHA} – with a request to take all necessary actions for toll collection management of above toll plaza, at the earliest.

Yours Faithfully

Sd/-

P. K. Mourya

Superintendent Engineer (Zone-IV)

For Director General (Road Development) & SS"

5. In the above circumstances, we find it appropriate to have the writ petition closed without entering into merits of the matter. It is ordered accordingly. Copy of the above letter placed for our perusal will form part of the records.

Sd/-

(P.R. Ramachandra Menon)

CHIEF JUSTICE

Sd/-

(Prashant Kumar Mishra)

JUDGE