

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1708 of 2019**

M/s Ramsharan Singh Through - The Partner Ramsharan Singh Bhadoriya S/o Late Shri Raj Bahadur Singh, 64 Years, R/o House No. 56, Shanti Nagar, Sukma District Sukma Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Police Works Department Mantralaya Atalnagar, Raipur Chhattisgarh.
2. The Engineer - In - Chief Public Works Department North Block Sector - 19, Atal Nagar District Raipur Chhattisgarh.
3. Chief Engineer (Planning) Office Of Chief Engineer Public Works Department, Atal Nagar, Raipur Chhattisgarh.
4. The Executive Engineer Project Implementation Unit No. - II Chhattisgarh Gramin Sadak Vikas Abhikaran Sukma, 1st Floor No. 9, 10, 17, Collectorate Premises, Sukma District Sukma, Chhattisgarh.
5. Chief Executive Officer, Chhattisgarh Gramin Sadak Vikas Abhikaran, Civil Lines, Raipur District Raipur Chhattisgarh.

---- Respondents

For Petitioner	: Shri Prafull N. Bharat, Advocate.
For Respondent/State	: Smt. Fouzia Mirza, Additional Advocate General.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Manindra Mohan Shrivastava, Judge

Order on Board**13/05/2019****Per P.R. Ramachandra Menon, Chief Justice**

1. The Petitioner, who is a Contractor, has moved this Court with the following prayers:-

“10.1 To call for the records of the case for the kind perusal of this Hon'ble Court.

10.2 To issue an appropriate writ or order and declare that the order dated 15.03.19 (Annexure P-1), order dated 08.06.18 (Annexure P-2) and order dated 15.06.18 (Annexure P-3) is illegal, arbitrary, bad in law and without jurisdiction.

10.3 To issue an appropriate writ or order and quash the order dated 15.06.19 (Annexure P-1), 08.06.18 (Annexure P-2) and order dated 15.06.18 (Annexure P-3).

10.4 Any other relief deemed fit in the facts and circumstances of the case may also be granted.”

2. Heard learned counsel for the Petitioner as well as learned Additional Advocate General appearing on behalf of the State.

3. The sequence of event is as follows: tender notifications (Annexures P-5 & P-6) were issued inviting bids from qualified persons; pursuant to which, the Petitioner herein sought to participate in the tender by virtue of his credentials as an 'A' class Contractor. The grievance of the Petitioner is that, the staff of the Petitioner unfortunately had furnished some incorrect information while scanning and uploading of some FDRs, but before the bid was opened, the Petitioner intimated the Respondent concerned that there was a mistake and the bid be treated as non-responsive.

4. However, without any regard to the genuineness of the grievance projected by the Petitioner, it so happened that the 3rd Respondent as per order dated 15.03.2019 (Annexure P-1), cancelled the registration of the Petitioner. It is also pointed out that as per order dated 08.06.2018 (Annexure P-2), license of the Petitioner was suspended and thereafter, vide order dated 15.06.2018 (Annexure P-3), he was debarred from participating in any of the tenders issued by Respondent No.5. This made the Petitioner to approach this Court with the prayers as mentioned above.

5. During the course of hearing, the learned counsel of the Petitioner points out that the order at Annexure P-1 dated 15.03.2019 was passed without affording an opportunity of hearing to the Petitioner. This is sought to be rebutted by the Additional Advocate General pointing out that proper show-cause notice was issued to the Petitioner as borne by Annexure P-11 giving sufficient time and after considering the seriousness of the issue involved, the matter was finalized by passing Annexure P-1. It is stated that Annexure P-1 is in conformity with the relevant facts, figures and relevant provisions of law.

6. After hearing both the sides, we find that though as per Annexure P-11, show-cause notice dated 11.03.2019, a period of seven days was given to the Petitioner to submit his explanation with regard to the alleged incriminating circumstances, Annexure P/1 order came to be passed on 15.03.2019; just four days after the notice. The Respondent concerned did not wait for 'seven days' so as to enable the Petitioner to submit a proper explanation before passing Annexure P-1 order, virtually preventing him from putting forth his version which is far beyond the principles of natural justice.

7. The factual position as above is virtually conceded by the learned Additional Advocate General, that Annexure P/1 order came to be passed without waiting for the reply from the Petitioner, though it was passed in all bonafides, considering the gravity of the mischief.

8. Learned Additional Advocate General however submits that the Government is ready to consider the matter and a fresh order will be passed after affording an opportunity of hearing to the Petitioner.

9. In the above circumstance, we set aside Annexure P-1 dated 15.03.2019 as not correct or sustainable. The Petitioner is set at liberty to submit explanation, if any, in response to Annexure P-11 show-cause notice within one week from today. On receipt of the explanation, if any, to be submitted accordingly, the matter shall be considered by the competent authority and appropriate order shall be passed in accordance with law, as expeditiously as possible, at any rate within a period of 15 days from the date of receipt of the explanation as aforesaid.

10. In view of the above, writ petition stands disposed off. Other issues are left open.

Sd/-

(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-

(Manindra Mohan Shrivastava)
JUDGE