

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2218 of 2019**

- M/s Baliram & Sons, Through its Proprietor Mr. Santosh Kumar Boddun 1/b Industrial State, Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

- C.G. Rajya Beej Evan Krishi Vikas Nigam Ltd. Through its Managing Director Beej-Bhawan, Ravigram, Telibandha, Raipur, Chhattisgarh – 492006

---- Respondent

For Petitioner	:	Shri Aayush Bhatia, Advocate.
For Respondent	:	Shri Animesh Tiwari, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu, Judge****Order on Board****Per P. R. Ramachandra Menon, Chief Justice****05.07.2019**

1. The Petitioner is stated as aggrieved of the rejection of his tender submitted online, allegedly for not satisfying the requirement in the corrigendum/ notification. The case of the Petitioner is that the reason for rejection is hyper technical and hence, interference of this Court is called for.
2. Heard the learned counsel appearing for the Petitioner as well as the learned counsel representing the Respondent.
3. The sum and substance of the case is that a tender notification was issued by the Respondent way back on 11.03.2019 for supply of Bullock Drawn Hand

Operated Agriculture Implements, prescribing the last date and the manner in which, the tender was to be submitted. The case of the Petitioner is that, the Petitioner satisfied all the requirements and by virtue of the qualification and credentials, necessary tender submitted online, was well within the stipulated time (having submitted the same on 06.05.2019 before 11.30 am). The bid submitted by the Petitioner came to be rejected as let known to him vide Annexure P/5 dated 11.06.2019, which made the Petitioner to prefer Annexure P/6 representation on 18.06.2019 seeking for indulgence of the Respondent stating that the 'notarized document' has been submitted subsequently and that the Petitioner's price bid might be considered accordingly.

4. The learned counsel for the Petitioner submits that there is no mention in the original tender notification, that the particular document which is an 'undertaking' to be submitted on non-judicial stamp paper of Rs.20/- to be notarized and as such the Petitioner was not liable to be ousted from the tender process under any circumstance, though a corrigendum was released subsequently. It is also stated that the mistake was only due to a 'clerical error' and that the document was submitted as self-attested, instead of being notarized. The Petitioner moved the writ petition with the following prayers:

“(i) Issue a writ in the nature of mandamus directing the respondents to reconsider or accept the technical bid of the petitioner as per the requirements of the tender document.

(ii) Further issuance of a writ in the nature of mandamus for ratification of the mistake committed by the respondent in rejecting and ousting the petitioner in the tender process at evaluation state.

(iii) Declaration that the petitioner is eligible to participate in the aforesaid tender and for further direction to the respondent to open the financial bid of the petitioner.

(iv) Any other suitable direction which this Hon'ble Court may think fit in the facts and circumstances of this case may also kindly be issued.”

5. The learned counsel representing the Respondent-company submits that the idea and the understanding of the Petitioner is not correct or sustainable. There was a clear stipulation as per the corrigendum issued on 16.04.2019, as to the necessity to submit the document after having the same notarized. As a matter of fact, the original notification was issued on 11.03.2019 and as per notification, the last of date for submitting the said bid was on 25.04.2019. Since the said notification was defective in some respect and on coming across the same, it was sought to be corrected and the corrigendum notification was issued on 16.04.2019, by virtue of which, the last date for submitting the tender was extended upto 06.05.2019. It was only by virtue of said corrigendum notification, that the Petitioner sought to participate in the bid, who admittedly submitted the same only on the last date i.e. 06.05.2019, just one hour ago before expiry of the time stipulated for submitting the tender.
6. The course and conduct pursued by the Petitioner clearly reveals that, inspite of sufficient time, the Petitioner sought to turn up only in the eleventh hour and submitted a document as he found it fit, which was not proper. Reference to the corrigendum notification makes the requirement with regard to the submission of 'undertaking' in the prescribed form i.e. Annexure-IV. The heading of the same reads as follows:

“UNDERTAKING

(Upload on Rs.20.00/- Non Judicial Stamp Paper. And should be Notarized. The original hard copy should be submitted at the time of Rate Agreement.)”

7. The instruction to have the specific form itself makes it clear that the said 'undertaking' was to be executed on the non-judicial stamp paper of the value

as specified therein and to be notarized. This being the position, the admitted lapse on the part of the Petitioner in not submitting the documents in the prescribed form and manner made the Respondent to reject the tender, as it was not in order.

8. The version of the Petitioner that it is only a technical one, is not liable to be accepted or entertained. The purpose of submission of 'undertaking' on a non-judicial stamp paper, to be notarized by the notary, cannot be watered down under any circumstance.
9. Accordingly, interference is declined. Writ Petition stands dismissed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge