

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2465 of 2016**

1. Smt. Priti Sharma W/o Shri Narendra Sharma Aged About 40 Years R/o Kantikunj In Front Of Shri Ram Health Club, Raipur District-Raipur, Chhattisgarh.
2. Subhash Verma S/o Shri Santosh Verma Aged About 50 Years R/o Sector-1, Lane-In Front Of Hig 110, Pt. Deendayalaupadhyay Nagar, Rohinipuram, Raipur, District-Raipur, Chhattisgarh.
3. Smt. Sonalika Agrawal W/o Shri Jagdeo Agrawal Aged About 40 Years R/o First Floor, Naththu Dewangan Bada, Near Mahaveer School, Gudhyari, Raipur, District-Raipur, Chhattisgarh.
4. Smt. Usha Sharma Wd/o. Late Ramkumar Sharma Aged About 77 Years R/o Bramhanpara, Near Sohaga Mandir, Raipur, District-Raipur, Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh Through The Secretary, Town Administration And Development Department, Secretariat, Mahanadi Bhawan, New Raipur, Police Station And Post Rakhi District-Raipur, Chhattisgarh.
2. The Under Secretary Town Administration And Development Department, Secretariat, Mahanadi Bhawan, New Raipur, Police Station Rakhi District Raipur, Chhattisgarh
3. The Commissioner Municipal Corporation Raipur, Chhattisgarh.

---- Respondents

For Petitioners	:	Shri Sachin Nidhi, Advocate appears on behalf of Shri Vinay Pandey, Advocate.
For Respondent/State	:	Shri Gagan Tiwari, Deputy Government Advocate
For Respondent/Corporation	:	Shri Kashif Shakeel, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Sanjay K. Agrawal, Judge****Order on Board****Sanjay K. Agrawal, J.****25.06.2019**

1. By the instant writ petition, the Petitioner sought to challenge the order dated 23.01.2016, by which the State Government has directed for the shops constructed under I.D.S.M.T. Scheme the re-auction be done as the tender in question has not been finalized and the Respondent-Corporation has suffered loss.

2. Learned counsel for the Petitioner would submit that the State is absolutely unjustified in directing for re-auction of the subject shops and deserves to be quashed as the Mayor-in-Council has already recommended for allotment of the subject shops in favour of the Petitioners.
3. The learned counsel for the Respondents would support the impugned action.
4. We have heard the learned counsel for the parties, considered the rival submissions and went through the record with utmost circumspection.
5. It is correct to say that the Mayor-in-Council by its resolution dated 14.08.2014 recommended for the allotment of the shops in favour of the Petitioners and forwarded to the General Body of the Municipal Corporation for consideration, which is a competent body under the provisions of the Municipal Corporation Act and the rules framed thereunder to make an allotment of the shops by approving the recommendation made by the Mayor-in-Council. But, the General Body in its wisdom has taken a decision not to approve the tender and decided to call for the e-tender and accordingly rejected on 27.07.2015 and the State Government has thereafter issued the necessary order for re-auction of the subject property. The power or competence of the General Body of Corporation not to approve the subject tender is not in dispute. The General body of Corporation is a body which is entitled and empowered to take a decision either way, considering the recommendation made by the Mayor-in-Council. Once the decision has been taken and decided not to approve the recommendation of Mayor-in-Council, which has not been shown to be perverse or contrary to the record, the decision cannot be interdicted by this Court in exercise of extraordinary

jurisdiction under Article 226 of the Constitution of India and even the order directing re-auction, no prejudice is said to have been caused to the Petitioner, the Petitioners are always free to participate in the re-auction, if any.

6. Thus, we do not find any merit in the order impugned. The writ petition deserves to be and is hereby dismissed leaving the parties to bear their own costs.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Sanjay K. Agrawal)
Judge