

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2405 of 2018**

- M/s Kalyan Toll Infrastructure Ltd. , A Company Registered Under The Provisions Of The Companies Act 1956 Through Its Power Of Attorney Mr. K.A. Kansal S/o Mr. Kanti Saranl, Aged About 50 Yeras Working As Deputy General Manager, R/o 21-22/4, New Palasia, Indore Madhya Pradesh. Pin 452001.

---- Petitioner**Versus**

1. National Projects Construction Corporation Limited, (A Government Of India Enterprise) Through HOD (CM & W) N.P.C.C Ltd., Plot No. 148, Sector - 44 Gurugram, Haryana
2. The Chairman (Tender Committee) Office of The HOD (CM & W) N.P.C.C Ltd., Plot No. 148, Sector - 44 Gurugram Haryana.
3. M/s Shreejeekrupa Project Ltd., Engineers And Contractors, A Limited Company Registered Under The Companies Act Having Its Registered Office At Krishna Complex-2, Office No. 6, 2nd Floor, Rajnagar Chowk Nana Mava Road, Rajkot-4 (Gujrat) Through Its Director.

---- Respondents

For Petitioner	:	Shri Shishir Dixit, Advocate
For Respondents 1 & 2	:	Shri Amrito Das, Advocate
For Respondent No.3	:	Shri Yogendra Chaturvedi, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Per, Ajay Kumar Tripathi, Chief Justice****08.01.2019**

1. Writ application has been filed by the Petitioner for quashment of the award of the tender upon the Respondent No.3 despite him being the lowest bidder for construction of various buildings and structures in a Central University known as Guru Ghasidas Central University at Bilaspur.
2. Submission of the counsel for the Petitioner is that even though Respondent No.3 was L1, but the manner in which the decision had been taken in his favour, it disentitles him from award of the contract upon the private Respondent No.3.
3. In the pleadings, it is stated that there are certain material suppression of facts, if not misrepresentation of facts by Respondent No.3. But by ignoring the same,

contract had been awarded upon him. Some of the instances which have been cited include the so-called evidence obtained under the Right to Information Act that the Respondent No.3 had not actually completed the construction work of Raigarh Medical College and a misleading kind of certification was obtained from the Executive Engineer showing completion.

4. Respondents No.1 & 2 have filed their reply to the writ application. They have taken a plea that the Petitioner has virtually used the present writ application as a PIL. Instead of seeking any relief in his favour, he only wants quashing of the award of the tender in favour of Respondent No.3. Since no relief as such has been prayed for in his favour though he was L2, which by itself shows that he is more interested in derailing the award of tender rather than stepping into the shoes of Respondent No.3 and take on responsibilities of the execution of the contract.
5. It was also argued that no objection was raised when the technical bid of Respondent No.3 was accepted to be valid.
6. In addition to that, a plea has also been taken that the NIT in question stood cancelled by the Respondents as far back as 24.08.2018 and that aspect was also not assailed or challenged in the writ application because such a decision would have otherwise fulfilled the desire and the aspiration of knocking out Respondent No.3 from the award of contract.
7. Be that as it may, despite service of the reply on behalf of the Respondents, upon the Petitioner, raising such objections, no appropriate remedial steps have been taken to meet the points so raised except for obtaining some selective inputs or information on RTI application to knock down the contract as an afterthought. Nothing in terms of serious flaw in process of selection

and award of contract has been pointed out. It may be noticed that the technical bid of the tenderers including the present Petitioner was opened and evaluated. None of these objections as such were raised at that juncture, but only after the award of the contract that some kind of dirt digging has started by the Petitioner to knock out a competitor, of the benefit of cornering the contract, being the lowest bidder in terms of the NIT.

8. In view of the above facts, we are not inclined to interfere with the award of contract to Respondent No.3 on the basis of such pleadings and materials.
9. Writ application has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge