

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3186 of 2019

- Vijendra Kumar Nahta S/o Shri Hastimal Nahta Aged About 53 Years R/o Ward No. 13, Main Road, Sukma, District Sukma, Chhattisgarh.

---- Petitioner

Versus

1. Chhattisgarh State Civil Supplies Corporation Limited Through The Managing Director, Head Office at Hitvad, Parishad, Avanti Vihar, Raipur, District Raipur Chhattisgarh.
2. District Manager Chhattisgarh State Civil Supplies Corporation, District Sukma Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Prateek Sharma, Advocate
For Respondent-Corporation	:	Shri Vivek Ranjan Tiwari, Standing Counsel

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

P. R. Ramachandra Menon, Chief Justice

19.09.2019

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

“10.1. That, this Hon'ble Court may kindly be pleased to set aside the impugned order dated 13.08.2019 ANNEXURE P/1 passed by respondent no.1 and further be pleased to direct the respondent no.1 for refunding security deposit of rupees 4 Lakhs, regarding tender work of Sukma Base Depot to Sukma Block and Sukma Base Depot to Chhindigarh Block to the petitioner, within stipulated period in the interest of justice.

10.2. That, any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the costs of the petition may be given.”

2. Heard Shri Prateek Sharma, learned counsel for the Petitioner as well as Shri V.R. Tiwari, learned standing counsel for the Respondent-Corporation.

3. The Respondent-Corporation floated a tender on 04.06.2019 for the purpose of transportation of food-grains from the Sukma Base Depot to Sukma Block and from Sukma Base Depot to Chhindgarh Block. In response to the Notification, the Petitioner submitted a tender well within time. After getting qualified in the technical bid on 26.07.2019, the price bid was scheduled to be opened on 06.07.2019, which however did not take place on that day and was adjourned. On 27.07.2019, the price bids were opened in presence of the tenderers, when it was found that the Petitioner had quoted the lowest amount and was at L-1 position. But, on that day, as revealed from the minutes of the proceedings of the Tender Evaluation Committee, a representation was preferred by the Petitioner pointing out that the rate quoted by him was abysmally low, which was by virtue of an inadvertent for having quoted the rate per Quintal, despite the requirement in the tender Notification, to have the rate shown per Metric Ton. By virtue of the substantial disparity resulted because the above grave mistake, the Petitioner preferred the representation and sought to treat his case as 'no tender' and to relieve him from the burden, so as to make him eligible to get back the EMD of Rs. 4 lakhs submitted along with the tender. This request was not considered and by virtue of the Petitioner's status at 'L-1', the Tender Evaluation Committee awarded the work in favour of the Petitioner and proceeded with further steps. This made the Petitioner to approach this Court with the prayers as aforesaid, seeking for interference.

4. The learned counsel for the Petitioner points out that the rate quoted by the Petitioner was only due to an inadvertent mistake when the application was made online. It is also stated that at no point of time on or before had there been such a wide disparity with regard to the rates quoted and it had never gone below Rs.500 per Metric Ton. The mistake committed by the Petitioner might not be capitalised and the Respondent-Corporation might not be permitted to have unlawful gains in this regard, submits by the learned counsel. Reliance is also sought to be placed on Annexure-P/6 verdict passed by a Bench of this Court on 28.04.2017 in Writ Petition (C) No.1196 of 2017, whereby a nominal cost of compensation of Rs.25,000/- has alone been imposed on the party for the mistake committed; in turn causing the balance amount of the EMD deposited, to be released.
5. The learned counsel representing the Respondent-Corporation submits that the contention raised by the Petitioner is devoid of any merit. Specific reference is made to the tender Notification, where it is clearly stipulated that the rate has to be quoted 'per Metric Ton' and not per Quintal. Since the Petitioner participated in the proceedings in a casual manner, it is for the Petitioner to meet the consequence. The learned counsel also points out that under similar circumstance, interference has been declined by a Bench of this Court as per Annexure-R/1 dated 26.07.2018 in Writ Petition (C) No.2066 of 2018, wherein a reference is also made to Annexure-P/6. The learned counsel submits that, no law has been laid down in Annexure-P/6, whereas Annexure-R/1 declares the law. Annexure-P/6 was passed in the light of the particular facts

and circumstances involved therein, which however cannot be treated as a precedent for adjudicating the issue involved herein. By virtue of the verdict passed by this Court in Annexure-R/1, no interference is called for, submits the learned counsel.

6. After hearing both the sides, we do not find any reason to deviate from the view taken by this Court in Annexure-R/1. The writ petition fails. It is dismissed accordingly.

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

Sd/-
(Parth Prateem Sahu)
Judge