

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WPC No. 2808 of 2018

M/s A.K. Yadav Through Its Proprietor Ashok Kumar Yadav S/o Late Shri Sakaldeep Yadav, Aged About 60 Years, R/o Lig - 71, Shivaji Nagar, Niharika Korba, District Korba Chhattisgarh.

---- **Petitioner**

Versus

1. National Thermal Power Corporation Limited Through Its Agm (Cs), Jamnipali, District Korba Chhattisgarh.
2. Utility Powertech Limited (A Joint Venture Of Reliance Infrastructure Limited And National Thermal Power Corporation Limited), Through Its Resident Manager, Utility Powertech Limited, Jamnipali, District Korba Chhattisgarh.
3. M/s Vinod Kumar Singh Qt. No. Mig 26, Rajendra Prasad Nagar, Niharika Head Korba Chhattisgarh.

---- **Respondents**

For Petitioner	: Shri Sunil Otwani, Advocate.
For Respondent No.1	: Shri B.D. Guru, Advocate.
For Respondent No.2	: Shri Vinod Deshmukh, Advocate.
For Respondent No.3	: Shri Aashutosh Shukla, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

05/03/2019

Per Ajay Kumar Tripathi, Chief Justice

1. Heard counsel for the parties.
2. Writ application was filed for a direction upon Respondents No.1 and 2 i.e. National Thermal Power Corporation Limited ('NTPC') and Utility Powertech Limited ('UPL') not to issue work order in favour of Respondent No.3 in pursuance of Notice Inviting Tender No.746 dated 28.06.2018 ('NIT') since Respondent No.3 was said to be not qualified in terms of the conditions enumerated in the NIT in question.
3. The major thrust of the argument on behalf of the Petitioner, who is one of the unsuccessful bidders, was that Respondent No.3 was not a registered vendor

of Respondent No.2, the Utility Powertech Limited. If that be so, he should not have been allowed to participate in the tender itself.

4. On this aspect of the matter, returns have been filed both on behalf of the NTPC and UPL as well as the private Respondent No.3. They have in unison taken a plea that the registration of a vendor only with UPL is not the requirement of the NIT. The vendor could be registered with either of the joint venture Company i.e. Reliance Infrastructure Limited and National Thermal Power Corporation Limited. In the General terms and conditions of the NIT read with the Contract Manual, vendors suggested by NTPC in writing are also required to be considered provided they meet the qualifying requirement. There is no dispute that Respondent No.3 is a registered vendor with NTPC and NTPC in writing had informed the UPL of the list of such vendors, which were registered with the NTPC. This position is evident from Annexure R-1/4 and R-1/5.

5. In having failed to satisfy the Court that there was something amiss in allowing the Respondent No.3 to participate in the tender, the alternative argument sought to be built on behalf of the Petitioner is that the mode of tendering and procedure has been provided in the Contract Manual and there does not seem to be compliance of the said guidelines in NIT or award of tender.

6. We are not required to answer the said objection because the Petitioner participated in the tender process without raising any objection on any of the issue relating to the NIT and it is only after the Petitioner had failed to qualify and corner the contract, such issues are being raised by him.

7. It emerges that Respondent No.3 was L-1 and the Petitioner is L-7, obviously, the failed contractor is trying desperately to sabotage otherwise proper settlement of award in favour of the successful bidder that too after participation and failure.

8. We therefore hold that no grounds are made out for interference with the award of contract or the work order in favour of Respondent No.3, which was awarded on 11.012.2018 and Respondent No.3 is carrying out his responsibility in terms of the award of contract.

9. Writ has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE

Anu