

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3106 of 2018**

Uttam Kumar Dey S/o Late Subalchandra Dey Aged About 55 Years Caste-Kayasth, R/o- Lokmanya Tilak Ward No. 37, Dharampura, Jagdalpur, Through Power Of Attorney Holder-Asit Kumar Dey Son Of Subalchandra Dey, Aged About 44 Years, R/o- Lokmanya Tilak Ward No. 37, Dharampura, Jagdalpur, District-Bastar, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- The Secretary, Urban Administration And Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh.
2. The Commissioner Municipal Corporation, Jagdalpur, District- Bastar, Chhattisgarh.
3. The Revenue Officer Municipal Corporation, Jagdalpur, District- Bastar, Chhattisgarh.

---- Respondents

For Petitioner : Shri Akash Pandey and Shri Vikas Shrivastava, Advocates.
 For Respondent/State : Shri Rajnish Singh Baghel, Deputy Government Advocate.
 For Respondents 2 & 3 : Shri A.S. Kachhawaha, Advocate.

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

Order on Board**10/01/2019****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard counsel for the parties.
2. Vide General Council's resolution and decision dated 16.07.2018, the Petitioner was informed that his tender bid has been annulled for the reason that the offers made in the opinion of the General Council of the Municipality was too low.

3. The Petitioner wants quashing of this communication dated 01.09.2018, if not the resolution dated 16.07.2018.

4. A Notice Inviting Tender ('NIT') was issued by the Municipal authorities to offer a godown on lease for a period of three years. In the case in hand, the minimum bid price was fixed at Rs.20 Lacs. In response to the said NIT contained in Annexure P/2, the Petitioner alongwith one Paritosh Vishwas responded. The bid amount of the Petitioner was Rs.21.50 Lacs and that of one Paritosh Vishwas was Rs.21 Lacs. The Mayor-In-Council accepted the highest bid of Rs.21.50 Lacs in its meeting dated 13.03.2018. Thereafter, the matter was placed before the General Council, which decided to reject this recommendation of the Mayor-In-Council on the ground that offers were too low and therefore, a fresh NIT was required to be issued. This decision of the General Council dated 16.07.2018 was communicated to the Petitioner, which became the subject matter of challenge in the present writ.

5. Submission of the counsel for the Petitioner is that he was the highest bidder. The minimum bid was fixed was only Rs.20 Lacs whereas his offer was Rs.21.50 Lacs and so the Mayor-In-Council had accepted his offer. As a natural corollary, he should have been awarded the contract or the lease of the godown. However, for some strange and extraneous reason, the General Council did not accept the said offer despite recommendation made by the Mayor-In-Council.

6. Argument however is made on behalf of the counsel for the Municipality that the decision of the Mayor-In-Council is not final, it has to be approved by the General Council and then only, the recommendation is sent to the State Government for its approval and then, the award of the contract is made on the successful bidder.

7. Even from the pleading and material on record available in the present writ application, that stage was never reached in the present case. Whatever has been annexed by the Petitioner in the writ application is all part and parcel of the

decision making process and that by itself does not create any right in favour of any of the bidders, much less the highest bidder which is the Petitioner.

8. The decision making process therefore cannot form the basis for giving a direction for award of the contract in question. It seems that since the General Council i.e. the august house, had serious reservation on the acceptance of the offer made by the Petitioner. Looking at the revenue implication for the Corporation it was within their power to not accept the decision of the Mayor-in-Council.

9. We are not satisfied that interference is warranted with the communication dated 01.09.2018 as no final decision was taken for award of contract by the highest body.

10. Writ application has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE