

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 3826 of 2019**

- Mahaveer Prasad Agrawal, S/o Late Radhe Shyam Agrawal, aged about 45 years, R/o Village Nawapali, Tahsil Baramkela, Civil & Revenue District Raigarh (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through – Secretary, Department of Urban Administration and Development, Atal Nagar, New Raipur, District Raipur (C.G.)
2. The Joint Director, Department of Urban Administration and Development, Old R.T.O. Office, 1st Floor, Vyapar Vihar Road, Bilaspur, District Bilaspur (C.G.)
3. The Commissioner, Nagar Nigam Baramkela District Raigarh (C.G.)
4. The Chief Municipal Officer, Nagar Nigam Baramkela District Raigarh (C.G.)

---- Respondents

For Petitioner	:	Shri Sudhir Kumar Verma and Shri Shashi Bhushan Singh Patel, Advocates.
For Respondents/State	:	Shri Vikram Sharma, Deputy Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Order on Board**Per P. R. Ramachandra Menon, Chief Justice****06.11.2019**

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

“i) That, this Hon'ble Court may kindly be pleased to call the entire record relating to petitioner's case.

ii) That, this Hon'ble Court may kindly be pleased to issue appropriate writ in which declare that section 358 & 359 of the Chhattisgarh Municipalities Act, 1961 are ultra vires.

iii) That, this Hon'ble Court may kindly be pleased to issue appropriate writ directing therein that rules and conditions for the tender No. 695 dated 16.09.19 are hereby quash.

iv) That, this Hon'ble Court may kindly be pleased to issue appropriate writ direct therein to the respondents to submit application the timing should be official working time of that office.

v) That, this Hon'ble Court may kindly be pleased to set aside/quash the tender inviting notice No. 695 dated 16.09.19 (Annexure P-1) passed by respondent no. 4.

vi) That, this Hon'ble Court may kindly be pleased to set aside/quash the rules and conditions of tender notice No. 695 dated 16.09.19 (Annexure P-6) passed by respondent no. 4.

vii) Any other relief/reliefs which may deem fit and proper in the facts and circumstances of the case, may also be allowed."

2. Heard Shri Sudhir Kumar Verma and Shri Shashi Bhushan Singh Patel, the learned counsel appearing for the Petitioner as well as Shri Vikram Sharma, the learned counsel representing the State, at length.
3. The sum and substance of the case projected by the Petitioner is that by virtue of the various stipulations contained in Annexure P/1 tender notification dated 16.09.2019 issued by the 4th Respondent, particularly with regard to the time within which the tender has to be submitted, serious prejudice has been caused to the Petitioner. The learned counsel submits that the last date for submitting the tender was stipulated as 09.10.2019 and it had to be reached before 3 pm. The learned counsel submits that if the Petitioner has forwarded the tender by post and if the postman reaches the destination and tries to hand over the post after 3 o'clock, it will not be accepted, despite the fact that the office hours will be up to 4.30 pm.
4. We are not impressed with the said submission because the tender notification was issued on 16.09.2019 and as many as '22 days' were provided to submit the tender. If the Petitioner was vigilant enough, he could have submitted the

tender well on time and there is absolutely no rationale in sleeping over the issue and waited till the the 'eleventh hour', whereby the tender would reach the destination only after the stipulated time.

5. The learned counsel concedes that, by virtue of time restriction, the Petitioner could not participate in the tender. It is pointed out that the Petitioner is also aggrieved of the provisions under Sections 358 and 359 of the Chhattisgarh Municipalities Act, 1961 which gives unbridled power to the local authorities with regard to the various aspects mentioned therein and this has also a bearing with regard to the grievance projected herein.
6. Shri Vikram Sharma, the learned counsel for the State submits that it is for the awarder of the contract to stipulate the relevant terms and conditions including the dates and time within which the tender has to be submitted and to be proceeded in accordance with law. The learned counsel seeks to place reliance on the verdict passed by the Apex Court in the case of ***Michigan Rubber (India) Limited vs. State of Karnataka & Others*** reported in **2012 (8) SCC 216**.
7. After hearing both the sides, we are of the view that absolutely no cause of action has been projected in the writ petition. None of the grounds raised in support of the writ petition could be held as tenable.
8. Accordingly interference is declined. Writ petition stands dismissed. The challenge against the constitutional validity of the relevant provisions is left open, as this is not a fit case to have it considered.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge