

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3380 of 2018**

- M/s Gupta Construction Company a partnership firm Registered Under The Partnership Act, Class A Contractor Registered With Public Works Department Chhattisgarh Through its Partner Ankit Gupta S/o Late Mohanlal Gupta aged About 26 Years R/o Shailendra Nagar Raigarh District Raigarh Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through its Secretary, public Works Department Mahanadi Bhawan Mantralaya Capital Complex New Raipur District Raipur Chhattisgarh.
2. Engineer In Chief, Public Works Department Nirman Bhawan Sector 19, new Raipur District Raipur Chhattisgarh.
3. Chief Engineer (Tender Cell) Public Works Department Nivida Prakostha Office Of Engineer In Chief Raipur District Raipur Chhattisgarh.
4. Executive Engineer, Public Works Department, Bridge Construction Division, Bilaspur District Bilaspur Chhattisgarh.
5. Trilok Singh S/o Late Mahabir Singh Aged About 65 Years R/o Gandhi Nagar Ambikapur, District Surguja Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Manoj Paranjpe, Advocate.
For Respondents-State	:	Shri R.S. Baghel, Deputy Advocate General
For Respondent No.5	:	Shri C. Jayant K. Rao, Advocate

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****25.07.2019**

1. The prayers are in the following terms :

“10.1 That, this Hon'ble Court may kindly be pleased to writ/writs, order/orders, direction/directions and the decision of the respondents, whereby the petitioner has been declared as disqualified may kindly be set-aside and the respondents may kindly be directed to open the financial bid of the petitioner and to reconsider the matter a fresh.

10.2. That, this Hon'ble Court may kindly be pleased to writ/writs, order/orders, direction/ directions and the letter of intent issued in favour of the private respondent No.5 (if any) may kindly be set-aside.

10.3. That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case.”

2. Heard the learned counsel for the Petitioner, the learned counsel representing the State and the learned counsel representing the 5th Respondent as well.
3. The sum and substance of the case projected before this Court is that pursuant to the tender notification issued by the Government of Chhattisgarh, Public Works Department for “Construction of H.L. Bridge I/c approached road across Chhindai River on Madwani-Kachhar-Taraimar Khudmura Road, Korba (C.G.)”, the Petitioner, being fully qualified in all respects, submitted tender along with all the requisite documents. The technical bid and price bid were furnished separately as insisted. While so, the Petitioner was served with Annexure P/4 notice dated 23.08.2018 asking the Petitioner to explain whether the “verification” part of the affidavit (which was to be furnished in terms of Condition No. 5 of the 'special conditions') was filed or not. Immediately, the Petitioner, on realising that there was an 'inadvertent mistake' in submitting the affidavit, which in fact was in two pages, produced the verification part as well, but the technical bid of the Petitioner came to be rejected, ultimately awarding the contract to the 5th Respondent herein, which is under challenge.

4. The learned counsel representing the Respondent No. 5 submits that the submission of the affidavit in the proper form, as prescribed in the special conditions of tender, i.e. condition No. 5, was very much obligatory. Admittedly, the 'verification part', which is most crucial, was never submitted by the Petitioner, but for the portion contents in paragraphs 1 to 6 on a stamp paper. The position was sought to be ascertained and it was accordingly that Annexure P/4 notice was issued upon, which the mistake was virtually conceded.
5. It is stated that the understanding of the Petitioner that an opportunity was given to him to rectify the defect and hence his price bid ought to have been considered is not correct. It was never an invitation to cure the defect, but to verify the factual position as to whether the verification part of the affidavit was actually uploaded or not.
6. After hearing both the sides, this Court finds that the lapse on the part of the Petitioner in properly complying with the 'condition No. 5' forming part of the 'special conditions' stands conceded. The affidavit of course is contained in two pages and the most crucial part with regard to the 'verification', to the effect that whatever that has been stated in paragraph 1 to 6 of the affidavit as mentioned above was correct, was obviously lacking on the first page (which alone was uploaded at the time of submitting tender). Since the requisite 'verification' was never submitted alongwith the documents which ought to be submitted before the last date of the tender, within the prescribed time, there is an admitted failure on the part of the Petitioner in producing the documents of the requisite nature, in the requisite form, to the requisite

extent. This being the position, the course of action taken by the respondent authorities in rejecting the technical bid of the petitioner is proper in all respects. It was in the said circumstances, that the proceedings were finalised considering the price bids submitted by the others, ultimately leading to awarding the contract in favour of the successful bidder i.e. the 5th respondent.

7. We do not find anything illegal, arbitrary or irregular in the proceedings as stated above. No tenable ground is brought out to call for interference. The writ petition fails. It is dismissed accordingly.

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

Sd/-
(Parth Prateem Sahu)
Judge