

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3455 of 2018**

- M.G. Girish S/o Late M N Gopalan Aged About 54 Years Proprietor Of Girish Enterprises, R/o Quarter No.3A, Street No.22, Sector- 5, Police Station Kotwali, Bhilai, District Durg Chhattisgarh

---- Petitioner**Versus**

1. Union Of India Through The Principal Secretary, Ministry Of Steel, Udyog Bhavan, New Delhi- 110011
2. Ferro Scrap Nigam Limited (A Govt. Of India Undertaking), Through Its General Manager, Equipment Chowk, Central Avenue, Bhilai- 490001, District Durg Chhattisgarh

---- Respondents

For Petitioner : Mr. Sunil Pillai, Advocate

For Respondents/UOI : Mr. B. Gopa Kumar, Assistant Solicitor General

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Goutam Bhaduri, Judge****Order on Board****Per P.R. Ramachandra Menon, C.J.****20/06/2019**

1. The petitioner moved this Court with the following prayers:-

“10.1 To call for entire records pertaining to the present NIC for kind perusal.

10.2 To set aside the impugned Pre-Qualification Tender Notice No.TN 15/18-19 dated 22.11.2018 (annexure P/4).

10.3 To direct the respondent No.2 not to float Pre-Qualification Tender for the same work before expiry of 3 years.

10.4 To grant any other relief deemed fit and proper in facts and circumstances of the case.”

2. Heard the learned counsel for the petitioner as well as the learned Assistant Solicitor General appearing on behalf of respondents.
3. The gist of the case is that the petitioner, on proving his credentials, was empanelled by the respondent No.2 for Pre Qualification Tenders in the year 2015 for a period of 3 years. The process was repeated and the petitioner was empanelled again for a further period of three years w.e.f. 18.05.2018. Despite this, the respondent No.2 issued a fresh notification inviting tenders, which virtually stands detrimental to the rights and interest of the petitioner, who has already been empanelled pursuant to the Notification No. TN 14/2018-19 dated 27.08.2018. It is in the said circumstances that the new tender notice dated 22.11.2018 has been sought to be challenged as arbitrary and illegal in all respects.
4. In response to the case projected by the petitioner, the respondent No.2 has filed its version that the idea and understanding of the petitioner is thoroughly wrong and misconceived. It is stated that the idea of the respondent No.2 is only to get more competent and competitive hands for meeting the requirements, as the existing entities including the petitioner are not enough. The version of the said respondent is also to the effect that no prejudice will be caused to the petitioner in this regard and that the attempt is only to maintain higher level of quality & competitiveness in all respects. It is further pointed out that the petitioner cannot aspire that he shall remain there for a period of three years as a matter of right, as the tender notice itself clearly specifies that the empanelment was generally valid for a period of three years; but the

respondent No.2 had reserved the right to extend or terminate the validity period without assigning any reasons and/or incurring any liability thereby.

5. When the matter came for consideration before this Court in the forenoon, taking note to the stand taken by the respondent No.2 as to the purpose of issuance of the new tender shortly after few months of empanelling the petitioner was only to widen the zone of consideration, it was sought to be ascertained as to why the petitioner should be ousted from the field. Learned Assistant Solicitor General submits in the afternoon, after getting instructions from the authorities of respondent No.2, that the said respondent does not intend to oust the petitioner from the field and that his candidature and empanelment would be continued. Insofar as the rights and interest of the petitioner are stated as not adversely affected, we find no reason to have any interdiction with regard to the tender notice issued by the respondent No.2 for identifying more persons, similar to the petitioner herein. The writ petition stands closed accordingly.
6. It is made clear that in view of the stand now taken by respondent No.2, the registration of the petitioner as a qualified hand will continue and the petitioner need not participate in the present tender floated by the respondent No.2. It is open for the respondent No.2 to keep the entire lists of qualified hands and to allocate the work as per norms.

The matter is disposed of accordingly.

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

Sd/-
(Goutam Bhaduri)
Judge