

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1262 of 2020

- Om Prakash Sahu S/o Late Dawarika Ram Sahu Aged About 46 Years Resident Of Ward No. 17, Buddha Vihar Gali Sadhuchal Tulsipur, Rajnandgaon, Tah. And District- Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through Its Chief Secretary, Mahanadi Bhawan, Nava Raipur, Chhattisgarh.
2. Director Health Services Indravati Bhawan, Atal Nagar Nava Raipur, Chhattisgarh.
3. The Collector Rajnandgaon District- Rajnandgaon Chhattisgarh
4. The Chief Medical And Health Officer Rajnandgaon, District- Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Love Kumar Ramteke, Advocate
For Respondents/State	:	Mr. Gagan Tiwari, Deputy Government Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per, P. R. Ramachandra Menon, Chief Justice

26.06.2020

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

“10.1 That, this Hon'ble Court may kindly be pleased to call the entire records from the respondents.

10.2 That, the Honble Court may kindly be pleased issued order to quashing the Tender dated 24/10/2019 Annexure-P/1.

10.3 That, this Hon'ble Court may kindly issue a writ in the of Mandamus directing the respondent Nos. 1 to 3, respondent No.4 to take departmental and criminal action for negligence.

10.4. That, this Hon'ble Court may kindly be pleased to grant any other relief or pass such other and further orders as may be deemed fit and proper in the facts and circumstances of the present case in the interest of justice.”

2. Heard Mr. Love Kumar Ramteke, the learned counsel appearing for the Petitioner as well as Mr. Gagan Tiwari, the learned Deputy Government Advocate representing the State.
3. The sum and substance of the grievance projected by the Petitioner is that the Petitioner, involved in making and selling of eyeglasses and sunglasses, had participated in a Tender floated by the 4th Respondent on 18.09.2019 as per Annexure-P/2. However, the said Respondent, instead of finalizing the said proceedings, simply floated another Tender by way of Annexure-P/1 dated 24.10.2019, incorporating some additional points, which according to the Petitioner is not correct or sustainable and hence the writ petition seeking to quash the 2nd Tender.
4. The learned counsel for the Petitioner points out that the attempt on part of the Respondents is only to oust the Petitioner. In so far as the 1st Tender is concerned, there were only '21 points' to be satisfied as the requirements to make one eligible and the Petitioner was satisfying all the requirements. However, coming to the 2nd Tender, '26 points' have been stipulated, which is not liable to be sustained as not supported by any legal sustainable materials or provisions. The learned counsel also submits that the matter was pursued further by the Respondents only after submission of an application under the provisions of Right to Information Act, 2005 for getting the reason for dropping the 1st Tender. Interference of this Court is necessary to prevent miscarriage of justice, and hence the writ petition.

5. Mr. Gagan Tiwari, the learned Deputy Government Advocate representing the State points out that the reason for cancellation of the 1st Tender is quite discernible from the proceedings filed by the Petitioner himself. Reference is made to Annexure-P/6 application under the Right to Information Act, wherein a question was asked, as to 'why' the 1st Tender was cancelled and the 'power' to have it cancelled. This was replied as per Annexure-P/7 dated 18.03.2020, whereby it was clearly pointed out that, pursuant to the 1st Tender Notification, only one bidder (Petitioner) had submitted the bid. As there was only one Tender, they had to go for a better choice/price and for more healthy competition. The learned counsel also makes a reference to 'Clauses 5 and 13' of the 1st Tender Notification, whereby power was very much conferred upon the Authority to have the Tender cancelled. With regard to the 2nd Tender Notification dated 24.10.2019, it is pointed out that the matter is still under process and the Petitioner, if qualified and applied, will be considered on the basis of his merit involved.
6. The learned counsel for the Petitioner submits that the Petitioner has already submitted its 2nd Tender on 14.11.2019. If the Petitioner is qualified in respect of the terms and conditions notified as per Annexure-P/1 Tender dated 24.10.2019, it is for the Respondent/ Authorities to have the credentials considered accordingly. We do not accept the version of the Petitioner that in the 2nd Tender, more / additional conditions/stipulations were incorporated so as to oust the

Petitioner. The Petitioner does not have the right to dictate the terms/stipulations and it is for the Respondent / Authority to stipulate appropriate terms and conditions to safeguard their interest and ensure the quality, quantity and such other aspects including timely supply and service.

7. In the said circumstance, we do not find any tenable ground for interference. The writ petition stands dismissed without prejudice to rights and liberties of the Petitioner to participate in the 2nd Tender (Annexure P/1 dated 24.10.2019), if he is qualified otherwise, in accordance with the terms and conditions of the Tender Notification.

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

Sd/-
(Parth Prateem Sahu)
Judge