

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2147 of 2020**

- M / S Rajendra Pateria Constructions Company Through Its Proprietor Rajendra Kumar Pateria S/o Late G.S, Pateria Aged About 52 Years, R/o Qr. No. H-18, Irrigation Colony, Rampur Korba, Thana Rampur, District Korba Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Urban Administration And Department Urban Administration And Development, Chhattisgarh, Indrawati Bhawan Block - D, Fourth Floor, Atal Nagar Raipur Chhattisgarh.
2. State of Chhattisgarh Through Collector Korba District Korba Chhattisgarh.
3. Municipal Corporation Korba Through Commissioner Korba Saket Bhavan ITI Chowk, Rampur Korba Chhattisgarh.
4. R.K. Transport Constructions Ltd. Through Its Proprietor, Mr. Sushil Agrawal Registered Address At Transport Nagar, Korba.

---- Respondents

For Petitioner	: Dr. N.K. Shukla, Senior Counsel with Shri Shailendra Shukla, Advocate
For Respondent No. 1 & 2	: Shri Chandresh Shrivastava, Dy. AG.
For Respondent No. 3	: Shri B. D. Guru, Advocate.
For Respondent No. 4	: Shri Rishabh Garg, 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****19.10.2020**

1. The Petitioner has moved this Court by way of the writ petition with the following prayers:

“10.1 The Hon'ble Court may call for records from the Respondents.

10.2 The Hon'ble Court may issue appropriate writ or direction against the erring Respondents(s) and direct setting aside the grant of tender work allotted to private respondents.

10.3 The Hon'ble Court may direct timely determination of the Representation submitted by the Petitioner.

10.4 The Hon'ble Court may direct State Respondents to abide with the agreement entered with the Petitioner.

10.5 The Hon'ble Court may issue any other Writ, Order(s), Direction(s) or any other relief as this Hon'ble Court may deem fit and proper in the nature and circumstances of the present case in the interest of justice.”

2. When the matter came up for consideration, on 23.09.2020, the following order was passed:

“Dr. N.K. Shukla, Senior Advocate with Shri Shailendra Shukla, Advocate for the Petitioner.

Shri Chandresh Shrivastava, Deputy Advocate General for the State/Respondents No. 1 and 2.

Shri Pankaj Agrawal, Advocate for Respondent No. 3.

Dr. Shukla, the learned senior counsel appearing for the Petitioner submits that pursuant to the tender notification issued by 3rd Respondent for construction of BT road from Ratakhar to New Tulsi Nagar Bridge (Gevraghat) at Korba on 19.02.2020 as discernible from Annexure P/3, the Petitioner participated in the same and came to be successful by securing placement of 'L-1' level as disclosed from Annexure P/4. Thereafter, the Petitioner was required to take further steps as borne by the proceedings dated 26.05.2020 issued by the 3rd Respondent. It was accordingly that the Petitioner submitted the agreement to be executed between the parties as borne by Annexure P/5 before the competent authority. It has now come to the knowledge of the Petitioner that the work has been awarded to the 4th Respondent, a stranger, who was nowhere in the scene having not participated in the bid. As such, the course and proceedings pursued by the 3rd Respondent are wrong, arbitrary and illegal in all respects and hence the challenge.

Shri Pankaj Agrawal, the learned standing counsel appearing for the 3rd Respondent/Corporation submits that immediately on getting an advance copy of the proceedings, instructions have been called for, but it is yet to be furnished by the Corporation. The learned counsel, however, conceded that the 4th Respondent was not a participant in the bid proceedings.

In the said circumstance, we admit this matter.

Shri Shrivastava takes notice on behalf of the Respondents No. 1 and 2.

Shri Agrawal takes notice on behalf of the Respondent No. 3.

Issue urgent notice to the 4th Respondent by speed post. Process fee, as per rules.

Considering the facts and circumstances, the 4th Respondent shall stand injected from pursuing the work for construction of BT road from Ratakhar to New Tulsi Nagar Bridge (Gevraghat) at Korba floated by 3rd Respondent, for the time being; if the work in question has been awarded to him.

Respondents are directed to file their returns.

List this matter for further consideration on 14.10.2020.”

3. It was brought to the notice of this Court by the learned counsel appearing for the 4th Respondent on 14.10.2020 that the said Respondent was not necessary party to the proceedings, insofar as no work order had been issued by the 3rd Respondent or any other Respondent to the 4th Respondent as alleged by the Petitioner.
4. In the said circumstance, a return was sought to be filed by the Respondent concerned and accordingly, return dated 13.10.2020 has been filed by the 3rd Respondent. It is submitted by the learned counsel on behalf of the 3rd Respondent that the idea and understanding of the Petitioner with regard to the course and events is not correct and that the correct position has been given in paragraphs 6, 8 and 9 of the reply, which are extracted below, for convenience of reference:

“6. That, it is most humbly and respectfully submitted that, in fact, the answering respondent has not cancelled the proceeding of NIT dated 19/2/2020 and even presently the Corporation has inclined to award the work to the petitioner subject to the condition that his registration as contractor in the PWD be renewed.

8. That, it is submitted that as far as the contention of the petitioner that the work has been awarded to a stranger i.e. respondent No. 4 is concerned, looking to the rainy season and bad condition of the road and arrangement has been made by the District Administration for repairing of road because large number of transport vehicles moved on the road in question and only for

repairing of the said road during the rainy season the District Administration has arranged repairing work through the respondent No.4.

9. That, it is submitted that as far as the answering respondent is concerned, the answering respondent is ready to issue the work order within the stipulated period subject to the condition the petitioner get the registration certificate renewed from the PWD. The Corporation has asked the petitioner on 3/10/2020 to submit the renewed registration within a period of 7 days vide ANNEXURE-R3/2 & R3/3, respectively. Hence, the petition has been filed by the petitioner without bringing correct facts before this Hon'ble Court. It is submitted that the answering respondent has not cancelled the NIT dated 19/2/2020 and even not awarded work to the respondent No.4 pursuant to the said NIT."

5. It is stated that the Respondents are ready to award work order to the Petitioner subject to condition that the registration of contract in PWD will be renewed.
6. Shri N.K. Shukla, the learned Senior counsel appearing for the Petitioner submits that in view of the contents of reply filed on the part of the 3rd Respondent, no further grievance subsists for the Petitioner and that the matter might be closed accordingly.
7. In the above circumstance, we are of the view that nothing survives to be considered or adjudicated by this Court. The writ petition is disposed off, in terms of the reply filed from the part of the 3rd Respondent. However, considering the submission made by the learned Senior Counsel as to the time for obtaining the renewal certificate, particularly, during the Covid-19 pandemic period, we find it appropriate to grant 'three weeks' time in this regard.
8. With the above observation, the matter stands disposed off.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge