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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2897 of 2020**

- M/s Prakash Asphaltings And Toll Highwaya (India) Ltd. A Company Incorporated And Registered Under The Provisions of The Companies Act, 1956, Having Its Registered Office At 76, Mall Road, Mhow, District - Indore, Madhya Pradesh, Through Its Authorized Signatory Shri Mayank Agrawal.

---- Petitioner**Versus**

1. Bilaspur Smart City Ltd., Through Its Managing Director, 3rd Floor, Pingle Bhawan, Nehru Chowk, Bilaspur, District - Bilaspur, Chhattisgarh.
2. The Manager, Bilaspur Smart City Ltd., 3rd Floor, Pingle Bhawan, Nehru Chowk, Bilaspur, District - Bilaspur, Chhattisgarh.
3. M/s Raipur Construction Pvt. Limited, Through Its Director, Having Its Regd. Office At 24, Ground Floor, Babla Complex, G.E. Road, Raipur, Chhattisgarh.

---- Respondents**WPC No. 2898 of 2020**

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---- Respondents

For Petitioner : Shri Rajeev Shrivastava and Shri Ankit Singhal,
Advocates.

For Respondents No. 1&2: Shri Prafull N. Bharat with Shri Mateen Siddiqui,
Advocates.

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****24.11.2020**

1. The reliefs sought for in these writ petitions are similar and hence the prayers raised in WPC No. 2897 of 2020 are extracted below for easy reference:

- “i. That this Hon'ble Court may kindly be pleased to call for the entire records from the office of Respondent No. 1 and 2 leading to passing of the impugned order dated 11.11.2020; and
 - ii. That this Hon'ble Court may kindly be pleased to call for the entire records of WPC No. 2390 of 2020 filed before this Hon'ble Court; and
 - iii. That this Hon'ble Court on perusal of the records may kindly be pleased to quash and set aside the order / notice dated 11.11.2020 issued by the Petitioner No. 1 and 2; and
 - iv. That this Hon'ble Court on perusal of the records may kindly be pleased to quash and set aside decision / minutes of meeting dated 6.11.2020 taken by the Empowerment Committee of Respondent No. 1; and
 - v. Any other relief, which this Hon'ble Court deems, fit in the facts and circumstances may also be granted in favour of the petitioner.”
2. Shri Rajeev Shrivastava, the learned counsel representing the Petitioner submits that the Petitioner had participated in two separate tenders floated by the Respondents. The bid was a two tier process, the first one, by way of technical bid and the second one, the price bid. On opening the technical bid, the credentials of the Petitioner were proved and accordingly, the Petitioner was declared as technically qualified. On opening the price bid, the Petitioner was declared as 'L1' and hence the Petitioner was expecting the work order to be issued by the Respondents. All of a sudden, the Respondent concerned, who has justified the course of action pursued in identifying the Petitioner (after qualifying them and also placed in the 'L1' level) in the separate proceeding filed by some of the disqualified parties in the tender, has arbitrarily cancelled the tender, which is subjected to challenge in WPC Nos. 2860 and 2872 of 2020. The grievance projected in the present petitions is in respect of the subsequent course and events, whereby the Petitioner has been 'black-listed' as per Annexure P/10 order, which is not correct or sustainable either in law or facts. The learned counsel asserts that, by virtue of settled position of law, before taking any coercive steps for 'black-listing' a party, it was obligatory for the Respondent

concerned to have issued a proper show cause notice, giving an opportunity of hearing. In the instance case, absolutely no such course has been pursued and hence the grievance.

3. Shri Prafull N. Bharat, the learned counsel representing the Respondents fairly concedes on the basis of the materials on record and as per the instructions received, that before passing the impugned orders, the Petitioner was not heard as to the reasons if any, for not black-listing the Petitioner. The learned counsel further submits that the matters could be disposed off with liberty to the Respondents to pursue further steps in accordance with law after issuing proper notice to the Petitioner.
4. In the above circumstances, we find it appropriate to interdict the course of action and accordingly, Annexure P/10 order dated 11.11.2020 sought to be impugned in these writ petitions is set aside. It is made clear that this is without prejudice to the rights and liberties to the Respondents to pursue further steps with regard to the course proposed to be pursued in accordance with law, after issuing a show cause notice to the Petitioner seeking for explanation and giving an opportunity of hearing in this regard. These matters stand disposed off accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge