

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPC No. 2315 of 2021

1. M/s M.P. Construction, A Partnership Firm, Having Its Office At Plot No. 62 Indira Commercial And Residential Complex, T.P. Nagar, Korba, Tehsil And District - Korba (C.G.) Through Its Partner, Manoj Parashar S/o Sri Ram Nath Parashar About 57 Years, R/o Near Main Post Office, Post Office - Korba, Tehsil And District - Korba Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through - Secretary, Public Works Department, Nava Raipur Atal Nagar, District - Raipur Chhattisgarh.
2. Chief Engineer (Central Tender Cell) Office Of Engineer In Chief, PWD Nava Raipur Atal Nagar, District - Raipur Chhattisgarh.
3. Superintendent Engineer, In-Charge Tender Cell, Office Of Engineer In Chief PWD, Nava Raipur, Raipur Chhattisgarh.

---- Respondents

For petitioner

Shri Sanjay Patel, Advocate

For State

Shri Chandresh Shrivastava, Dy. Adv. Gen.

(Proceedings through Video Conferencing)Hon'ble Shri Prashant Kumar Mishra, Ag. CJHon'ble Shri Parth Prateem Sahu. J.Order On BoardByPrashant Kumar Mishra, Ag. CJ.

21-06-2021

1. In this petition under Article 226 of the Constitution of India the petitioner has prayed for a direction to the respondents to accept envelop 'D' of the petitioner and open his bid which he had submitted in response to NIT for construction of High Level Bridge and Approach Road across Makakhadiya Nalla on Nawapara-Bhatapara Road.
2. Admittedly, NIT was issued on 6-4-2021 with the bid submission date (OnLine) being 29-4-2021 and for physical submission by registered post/speed post on 1-5-2021. These dates were extended/postponed to 18-5-2021 and 20-5-2021, respectively.
3. According to the learned counsel, the petitioner submitted his EMD (Earnest Money Deposit) on OnLine mode on 18-5-2021 and thereafter, send the physical documents by speed post on 19-5-2021, but the same did not reach to the tender issuing authority by 20-5-2021 i.e. the last date of physical document submission. Since the petitioner was not responsible for the delay in receipt of documents, as it happened due to lockdown, which has been imposed in the State owing to outbreak of COVID-19 Pandemic, the respondents should have opened the envelope 'D' submitted by the petitioner, which they had already received on 22-5-2021.
4. Having heard learned counsel for the petitioner, we are not impressed with the submission made for the reason that initially the tender notice was issued on 6-4-2021 with last date of OnLine submission on 29-4-2021 and the physical document submission by registered post/speed post on

1-5-2021, which was later on extended to 18-5-2021 and 20-5-2021, respectively. Instead of taking steps promptly, diligently and within time the petitioner awaited till last moment and made OnLine deposit of EMD only on 18-5-2021, but did not send the physical documents by speed post on the same day and waited for another day i.e. the penultimate day to send it by registered post on 19-5-2021 knowingly well, eyes wide open, that the last date is 20-5-2021 and the document may not reach to the authority before the last date. In any case there is no explanation whatsoever as to why the petitioner did not submit the physical document on 18-5-2021 when he undertook the step of OnLine bid submission. According to the tender documents also, it is crystal clear that, if there is any postal delay, the department is not at all responsible.

5. It is the settled law that writ Court do not come to the rescue of a lethargic or indolent citizen who sleeps over his right and cause deliberate delay in taking steps as required by the tender issuing authority. If the writ petition is entertained and directions are issued, there may be other candidates whose bid was received after the due date and this will make the process endless. Thus, no case is made out to entertain this writ petition.
6. As a sequel, the writ petition, *sans substratum*, is liable to be and is hereby dismissed at the motion stage itself.

SD/-
(Prashant Kumar Mishra)
Acting Chief Justice

SD/-
(Parth Prateem Sahu)
Judge

Gowri