

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1952 of 2020

- Hanumant, Contraction Through - Proprietor Ajay Kumar Yadav, Office At Ramayan Nagar Center, Koni Bilaspur District- Bilaspur Chhattisgarh 495009

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration And Development, Mahanadi Bhavan, New Raipur, District Raipur Chhattisgarh.
2. Director Department Of Urban Administration And Development, Mahanadi Bhavan, New Raipur, District Raipur Chhattisgarh.
3. Collector Mungeli, District Mungeli Chhattisgarh.
4. Nagar Panchayat Pathariya Through Chief Municipal Officer Nagar Panchayat Pathariya District - Mungeli Chhattisgarh.

---- Respondents

For Petitioner	: Mr. Hemant Kesharwani, Advocate
For Respondent No.1 to 3/State	: Mr. Vikram Sharma, Dy. GA
For Respondent No.4/ Nagar Panchayat	: Mr. Sudeep Agrawal, 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

16.02.2021

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

“10.1) That, this Hon'ble Court may kindly be pleased to set-aside the memo of communication issued by respondent No.04 (ANNEXURE P/01) and allow to participate in tender process.

10.2) That, this Hon'ble Court may kindly be pleased to issue writ of mandamus for set-aside the all proceeding in respect of the NIT dated 22.05.2020 issued by the respondent no.4.

10.3) Any other relief which this Hon'ble Court may deem fit and proper also kindly be granted to the petitioner, in the interest of justice.”

2. The learned counsel for the Petitioner submits that the Petitioner is a 'D Class Contractor', having registration with the authorities and was a

participant to Annexure-P/4 Tender Notification issued by the 4th Respondent. The Tender Notification is dated 22.05.2020 and the last date for submitting the bid was 12.06.2020 till 4.00 p.m. The tender was to be opened on the same day at 4.30 p.m. It is the case of the Petitioner that the tender was sent by 'ordinary post' and the same was served to the 4th Respondent well on time. However, quite to the shock and surprise of the Petitioner, he was served with Annexure-P/1 dated 22.06.2020 to the effect that his tender would not be opened for the reason that it was sent by 'ordinary post' instead of 'speed post' (as insisted in the Tender Notification). There is absolutely no rhyme or reason to oust the Petitioner from the zone of consideration; more so, when the purpose of service by speed post is only to ensure that the cover reaches the Respondent on time.

3. We heard Mr. Vikram Sharma, the learned counsel appearing for the Respondents No. 1 to 3/State and Mr. Sudeep Agrawal, the learned counsel appearing for the 4th Respondent.
4. The learned counsel for the 4th Respondent submits, on the basis of instructions received, that there is a clear stipulation in the Tender Notification that the tender had to be submitted by speed post; which requirement has not been satisfied and hence it was not considered. At the same time, the learned counsel submits, on the basis of instructions received, that the tender submitted by the Petitioner was received at the hands of the 4th Respondent within time i.e. before

the last date. The learned counsel points out that since it was not sent by speed post, it was not classified as an item to be taken up for consideration by the dealing officers / staff of the 4th Respondent and hence it was not considered along with other tenders (due to non-satisfaction of the requirement). The learned counsel submits that, pursuant to further steps, the tenders were opened, the successful bidder was identified and it was awarded as per the work order dated 06.01.2021. The factual position, as put forth by the learned counsel, is that the work involved is only for a period of 'three months' and more than 50% of the work is already over.

5. In the above circumstances, we do not find it as a fit case to exercise the discretionary jurisdiction for causing the successful bidder to be impleaded in the party array, to issue notice to him and to have the matter adjudicated accordingly, as by that time, the stake involved will be over. The matter has virtually become infructuous.
6. Accordingly, we decline to adjudicate the merits as to the issue raised with regard to the question of eligibility and the matter is closed as not a fit case for interference, at this stage.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge