

HIGH COURT of CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2226 of 2020****Order reserved on 24.02.2021****Order delivered on 15.03.2021**

- M/s Naveen Kumar, S/o Gorakhnath, aged about 42 years, R/o Ashish Nagar (West), Risali, Bhilai, District Durg, Chhattisgarh

-----Petitioner**VERSUS**

1. Bhilai Steel Plant, Through C.E.O., B.S.P., Ispaat Bhavan, B.S.P., Bhilai, District Durg, Chhattisgarh.
2. Senior Manager (Contract Cell-Non works), Bhilai Steel Plant, Steel Authority of India Limited, Room No. 518, Ispaat Bhavan, B.S.P., Bhilai, District Durg, Chhattisgarh

-----Respondents

For Petitioner	: Mr. B.P. Singh & Mr. Shikhar Bakhtiyar, Advocate.
For Respondents	: Mr. Ashish Surana, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****C.A.V. Order****Per Parth Prateem Sahu, J.**

1. Petitioner – M/s. Naveen Kumar, who is registered 'A' class contractor, has participated in the Notice Inviting Tender ('NIT') and registered with the Bhilai Steel Plant since last 10 years. Respondents-Authorities have issued tender notification vide NIT No. CCNW/Edu/PR-14500000020/OT-2020300015 dated 08.04.2020 for the work of "Cleaning, House Keeping & Sanitation Services at BSP Schools in Township & Mines". Alongwith petitioners six other bidders have also submitted their bids. The Agency intimated the bidders including petitioner with regard to minor change in the working days and value of the work on telephone, which was accepted by the petitioner. Upon becoming successful in techno-commercial evaluation and opening of the price bid, the petitioner has been

declared as 'L-1'. After becoming 'L-1', the petitioner wrote a letter to the Respondent Authorities on 8.8.2020 asking for reconsideration of the amount on the ground that the petitioner got confused by many of the data provided in the tender document and has quoted the lesser value / price for the work and has assessed the fresh price, which was more than the earlier price quoted by the petitioner. Letter was replied by the respondents-Authorities pointing out that the petitioner has quoted the value based on 313 working days and have requested the petitioner to withdraw the letter and to accept the quoted rate for the tender work. The petitioner again sent a letter on 12.08.2020 for permitting him to withdraw the abnormal price quoted by him and to grant him an opportunity to participate in fresh tender proceedings.

2. Respondents -Authorities, considering the above letters of petitioner, issued impugned letter / order to the petitioner on 29.08.2020 (Annexure P-1), in which, they have kept the petitioner on hold without issue of tender enquires up to next 12 months. This made the petitioner to approach this Court by filing instant writ petition on the following reliefs :-

“a) That the Hon'ble Court may kindly be pleased to set aside the impugned letter dated 29/08/2020.

b) That any other relief which this Hon'ble Court deems fit and proper may also be granted in favour of the petitioner safeguarding her interest.”

3. Mr. B.P. Singh, Counsel for the petitioner submits that petitioner, on the basis of the tender notification floated by the Respondents-Authorities, has submitted the bid wherein under Clause '4' period of

work has been mentioned as 340 working days and in Clause 9.2, estimated value of job is mentioned as Rs. 51,29,488.20/- including of all taxes, duties, levies & cess excluding GST. The respondents-Authorities have amended the tender notification and made 340 working days as 313 working days and the estimated value of job as Rs.47,22,149/-. The petitioner immediately after opening of bids wrote a letter to the Respondents-Authorities stating that due to confusing clauses in the tender documents, the petitioner on account of lack of experience, could not assess the working days and the value of the work properly as mentioned in the tender document, got confused and quoted lesser rate, therefore, he may be permitted to work on the total amount as re-calculated by the petitioner. Respondents have arbitrarily forced to accept the quoted rate, against which, the petitioner has further written a letter to permit him to withdraw the abnormal price and also to grant him opportunity to participate in the fresh tender proceedings of the said work. Instead of replying the said letter (Annexure P-6), the respondents – Authorities have issued order dated 29.08.2020 (Annexure P-1) suddenly without giving any prior notice and opportunity of hearing to the petitioner, imposed ban for a period of one year from participating in the tender proceedings. He submits that banning / blacklisting is having civil consequences and, therefore, respondents authorities ought to have given specific show cause notice for taking any such action against him. In support of his contention, the petitioner placed reliance upon the judgment of the Supreme Court in the case of **UMC Technologies Private Limited v.**

Food Corporation of India and Another¹, Daffodills Pharmaceuticals Ltd. and Another vs. State of U.P. and Another², Gorkha Security Services v. Government (NCT of Delhi) and others³ and Kulja Industries Limited v. Chief General Manager, Western Telecom Project Bharat Sanchar Nigam Limited and others⁴. He further pointed out that in the tender document under the instructions to the bidders, clause 21 provides for Banning of business dealings. The banning of business dealings as mentioned in the tender documents is under the Circular dated 24.11.2014. Under the Order/Circular dated 24.11.2014, suspension is provided during the period of investigation by the Competent Authority and the maximum period of suspension is provided for six months and can be extendable for three further months. Even suspension as provided under Clause 3.8 of the Circular /Order dated 24.11.2014 without any show cause notice cannot be for a period more than 9 months whereas the Respondents- Authorities have passed an order for banning the petitioner for a period of 12 months. Hence, it cannot be said that the petitioner has been suspended. He further submits that the petitioner has filed the letter dated 01.10.2020 alongwith covering memo wherein the Respondents -Authorities have refused to re-register the petitioner, which is clear enough to show the petitioner has been banned without following the due procedure of law and affording due opportunity of hearing. Action taken by the Respondents-Authorities is in violation of principles of natural justice.

1 2020 SCC OnLine SC 934

2 2019 SCC Online SC 1607

3 (2014) 9 SCC 105

4 (2014) 14 SCC 731

Learned Counsel for the Petitioner further submitted that under the Circular issued by the Respondents-Department on 24.11.2014, under Clause '2.0' grounds of Banning of Business Dealings is mentioned. Under the said grounds, reasons assigned by the Respondents- Authorities for banning of Business dealings with petitioner vide Annexure P-1 does not find place. Hence, the action taken by the Respondents-Authorities is *per se* arbitrary and not sustainable in the eye of law. On above grounds, it is submitted that order dated 29.08.2020 (Annexure P-1) be quashed.

4. On the other hand, Shri Ashish Surana, learned counsel for the Respondents – Authorities controverting the submissions made by Shri B.P. Singh, learned counsel for the petitioner submits that petitioner participated in the aforementioned tender notification. For floating the NIT, Respondents-Authorities have engaged and taken services of Mjunction Services Limited (henceforth “Mjunction”) for conducting online reverse auction. In pursuant to the tender notification, 10 bids / offer were received, out of which, 8 bids were found eligible in techno commercial evaluation including the petitioner. Before price discovery, revision has been made with regard to number of working days to 313 instead of 340 working days and the estimated value of the work has been revised as Rs.47,22,146.49/-. The Mjunction Agency engaged by the Respondents-Authorities for issuing tender notification had informed with regard to the revision in the number of working days and estimated value of work to the bidders, which was accepted by the Petitioner and also pleaded in

paragraph 8.5 of the writ petition. Once the revised working days and the work value has been accepted by the petitioner, then he cannot be permitted to raise any objection on revision of the working days and the value of work. Upon opening the price bid, the petitioner has been found to be 'L-1' with bid of Rs.48,50,000/-, which is higher than the estimated rate mentioned under the tender notification. As the bid was on reverse auction basis, the Mjunction under the second stage had launched the reverse auction on the same day i.e. on 4.8.2020 with estimated value of work during auction process only. One bid of the petitioner was received through Internet with his Online user ID and password. The petitioner being the registered vendor / contractor of BSP was well aware with the procedure and process of online reverse auction and with all his knowledge participated in the online reverse auction tender proceedings. The petitioner, in his letter dated 8.8.2020, mentioned that he was not having any experience of the "Non Works" contracts and therefore could not understand the nature of work and has wrongly estimated the work value. In the first letter itself, the petitioner has mentioned that the calculation made in the letter with regard to value of work i.e. Rs. 88,76,417/- be accepted. The proposal of the petitioner has been rejected by the Respondents – Authorities vide E-mail dated 11.8.2020, requested the petitioner to withdraw the letter and accept / confirm quoted rate unconditionally. In the said letter itself, there is specific mention with regard to the consequence if the petitioner fails to reply the letter dated 11.08.2020. Even after receiving the E-mail dated 11.08.2020, the petitioner instead of accepting the price quoted in the tender proceedings, have

further written a letter on 12.08.2020 i.e. Schedule date under the notice mentioning therein that he may be permitted to withdraw the quoted abnormal price and to afford an opportunity to participate in the fresh tender proceedings. The letter dated 11.08.2020 itself is a notice, which was received by the petitioner and has replied in the manner of letter dated 12.08.2020 (Annexure P-6). Hence, the petitioner cannot say that prior notice for taking action against him was not given to him and, as such, there was no violation of principles of natural justice. He further pointed out that as per Clause '4' of instructions to the Bidders, there is specific mention that tenderers / bidders are advised to visit the site of work to acquaint and assess the complete scope of Work and in the event of any doubt, the person concerned may seek clarification. The petitioner has not taken any action according to clause '4' and had not sought any clarification, if he is having any doubt or confusion over the terminology of the tender document. After participating in the bid proceedings, the petitioner cannot question the contents of the tender documents in any manner. In Clause '18' of the Instructions to the Bidders, there is specific mention, under which condition or when earnest money of the bidders shall be forfeited besides any other actions deemed fit to be taken i.e. on unilateral withdrawal of the bid during the bid validity. The petitioner has unilaterally withdrawn his bids, which is apparent from the two letters written by the petitioners dated 8.8.2020 & 12.8.2020, respectively. The Purchase/Contract Procedure 2020(henceforth 'PCP 2020") has been formulated in line with the CVC guidelines wherein Clause 11.4 of PCP 2020 provides that in case L-1 backs out,

re-tendering should be resorted to in a transparent and fair manner ***“without considering the backed out tenderer”***. Besides forfeiting the EMD submitted by the said tenderer, the tenderer shall be kept under hold without issue of tender enquiries up to next one year including barring participation in open tenders with the approval of concerned Head of the Department before issuing the order (Annexure P-1). The approval from competent authority of the Department has been obtained, Tender Committee has recommended for re-tendering of the work without considering the petitioner and further the petitioner to be kept under hold for next one year. The recommendation of the Tender Committee was duly approved and only thereafter the Order / Letter dated 29.08.2020 (Annexure P-1) has been issued. As the petitioner has unilaterally withdrawn his bid, appropriate action has been initiated by the Respondents Authorities in accordance with the clauses of the tender documents and the procedure as prescribed under PCP-2020. Contention of the petitioner is incorrect that the petitioner has been banned whereas action taken against the petitioner vide Annexure P-1 is not of banning but of hold, which is having limited implication as to his transaction with the Respondents. He further pointed out that from the contents of the letter dated 8.8.2020, 11.08.2020 & 12.8.2020, the fact of unilateral withdrawal of the bid by the Petitioner is established and on the admitted facts no other conclusion was possible. He further pointed out that the submission made by learned counsel that there is no ground for passing an order of banning under the Office order dated 24.11.2014 is not in dispute, the respondents -Authorities

have not taken any action of banning as provided under Office Order dated 24.11.2014 but the action has been taken against the petitioner under Clause 11.4 of the PCP -2020. Banning of business dealing is having larger consequences, if comes within the grounds of misconduct as mentioned in clause 2 of the office order (Annexure P-7). Once, the withdrawal of the bid is admitted by the petitioner, then he cannot raise any dispute or objection for the action taken against him under the PCP-2020. He pointed out that decision of withholding was taken by the Competent Authority in accordance with law. The Respondents-Authorities have filed note-sheet dated 18.8.2020 to show that the action taken against the petitioner is after due deliberations. He further pointed out that after issuance of Order Annexure P-1, petitioner vide E-mail dated 13.8.2020 had again made correspondence mentioning the similar facts of quoted the rate for the work erroneously. The Respondents-Authorities have floated new tender vide NIT dated 24.9.2020, in which, the techno commercial bids of the bidders have been opened.

5. In rejoinder to submissions made by learned counsel for the Respondents, Shri B.P. Singh, learned counsel for the petitioner submits that Purchase/ Contract Procedure 2020 is not part of the NIT, hence no action could have been taken by Respondents-Authorities under PCP 2020. He further submits that for the purposes of banning, the tender document bears the specific clause wherein it is mentioned that the procedure of banning would be under Circular No. O & M/Procedure/2014/1146, dated 24.11.2014, which is made

part and parcel of the NIT, whereas there is no mention of provision of withholding and, that too, under which circular/order. The petitioner has been restrained from participating in the tender proceedings including open tender for a period of 12 months. There is no difference between banning and keeping a party on hold. PCP 2020 is nowhere mentioned in the tender document and even in the letter dated 11.8.2020, there is no mention of specific clause either of the tender document or of the PCP 2020 for taking any action under those clauses.

6. We have heard learned counsel for the respective parties and also perused the pleadings and documents enclosed along with the writ petition.

7. It is undisputed fact that petitioner participated in the subject tender proceedings initiated by the Respondents. The Tender Floating Agency i.e. Mjunction has intimated certain correction on the number of working days and value of the work. The said amendment has been intimated to all the participants of the tender proceedings including the petitioner, which was accepted by him and also very specifically pleaded in paragraph 8.5 of the writ petition.

8. In view of the pleadings made by the petitioner in paragraph 8.5 of the writ petition, he cannot take a plea that revision in the number of working days and value of the work as mentioned in the original tender document was not known to him, which made him to commit some error in estimating the value of work. The ground raised by learned counsel for the petitioner that action taken under Annexure

P-1 is banning / blacklisting without there being any show cause notice is concerned, we find appropriate to extract relevant clauses of instructions to bidder under the tender document and Purchase / Contract Procedure 2020 for ready reference :-

“Clause 18 : Earnest Money Deposit (EMD):

a. Earnest Money Deposit (EMD) shall be accepted in the form of:-

- (i) Demand Draft
- (ii) Pay Order
- (iii) Banker's Cheque
- (iv) An ir-revocable Bank Guarantee in SAIL BSP Format as in attached Annexure – BG on Non-Judicial Stamp Paper of appropriate value.
- (v) TT Remittance /Online Transfer-NEFT, RTGS, SWIFT. The proof of such transfer /transaction needs to be submitted with the offer in the envelope titled Earnest Money Deposit.

All above financial / bank documents shall be drawn in favour of SAIL, BSP; from any Scheduled Commercial Bank except Co-Operative and Gramin Banks, encashable at Bhilai.

C. The EMD/Bid guarantee of all un-successful tenders will be returned within 30 days from the date of opening of price bid/placement of award letter, whichever is earlier.

e. The earnest money shall be forfeited besides any other action deemed fit on either of the following grounds:

- (i) On unilateral withdrawal of the bid during the bid validity.
- (ii) On modifying the bid unilaterally after opening of tender.
- (iii) Submission of false information / particulars and failure to establish authenticity of the documents filed in support of eligibility.
- (iv) On refusal to enter into contract or non submission of required document for signing of

Contract Agreement, after award within the stipulated period without sufficient justification.

(v) If the work is not commenced after the work is awarded.

(vi) Refusal to give performance bank guarantee in case the bidder is not able to justify the rates quoted by him and the job is awarded to them.

- g.** Micro & Small Enterprises (MSEs) / Public Sector Units (PSUs) / Govt. Undertakings and Co-operative Societies, etc., are exempted from submission of Earnest Money as per Government policy. For MSEs, the exemption from Earnest Money shall be granted only on submission of valid self attested copy of the certificate having a valid Entrepreneurs Memorandum (EM) Number/UAN. SSI/NSIC Certificate holders should also submit a copy of Entrepreneurs Memorandum.

As on the date of opening of Tender, the Bidder should have valid SSI registration to get the benefits of the same.

Clause 21. Banning of business dealings.

“The SAIL BSP reserves its rights to remove from the list of approved supplier / contractors or to ban business dealings, if any Agency/Bidder has been found to have committed misconduct, and also to suspend business dealings pending investigation. The procedure under which removal of an agency/ Bidder will be as per SAIL-BSP Circular No.: O & M/ Procedure/2014/1146 Date: 24/11/2014 and it will be part of tender document. Interested Bidder can obtain the copy of the aforesaid Circular from the office of the DGM I/c. (MM-CCNW).

9. If the aforementioned clauses of the Instructions to the Bidders

are considered in light of the facts of present case particularly in light of correspondence made by the petitioner and the Respondent-Authorities, it is apparent that the petitioner, who after emerging as 'L-1' on 4.8.2020 had written letter on 8.8.2020 mentioning as under:-

“Due to lack of experience of the “Non Works” contracts we got confused by many of the confusing data provided in the tender document and our calculation of man-days of workers was wrongly estimated and some of which we are highlighting below:-

xxx	xxx	xxx
xxx	xxx	xxx
xxx	xxx	xxx

However we would like to state that we are ready to execute the job if we are allowed to do the job at the present prevailing government labour rates. So we suggest 2 options for executing the subject job mentioned below:....”

10. Under the letter dated 8.8.2020, the petitioner has quoted the value of work, on which, he wanted to execute the same as Rs.88,76,417/-. The respondents-Authorities vide letter dated 11.08.2020 (Annexure P-5) have replied through E-mail, in which they have very specifically pleaded and requested the petitioner to withdraw the letter and accept / confirm your quoted rate unconditionally and have mentioned as under in concluding line, which states as under:

“Please submit your reply latest by 12.08.2020, 5.00 PM positively; failing which, we have to take legal action against

you.”

11. The Petitioner received the aforementioned letter within time, to which, he again wrote a letter on 12.08.2020 wherein, he has mentioned as under:-

“In view of the above, we request you to kindly withdraw our given abnormal price of Rs.47,22,149.00 and give us a fresh opportunity to participate in the reverse auction as we are very much interested to undertake the job if selected and assure to perform as per your satisfaction.

xxx

xxx

xxx

We once again request to kindly withdraw our given abnormal price of Rs.47,22,149.00 and give us an opportunity to participate fresh once again in the bid process with proper price bid.”

12. From the aforementioned contents of the letter, it is apparent that from the first day the petitioner has turned down from the rate/price quoted by him in his bid for execution of the work. In the letter dated 11.08.2020, Respondents-Authorities have very clearly mentioned that reply to be made on the contents of the letter to confirm the quoted rate unconditionally, to which, the petitioner has not confirmed but has written a letter for requesting of withdrawal of the price quoted by him and further requesting to provide an opportunity to participate in the fresh reverse auction / tender proceedings. The petitioner has not complied with the directions issued by the respondents-authorities vide letter dated 11.08.2020 and, therefore, the consequence upon his failing as mentioned in the letter has been taken against him i.e. “to take legal

action against him”.

13. Under Clause 21.1 of Instructions to the Bidders, it is very clearly mentioned as under :-

“In case L-1 backs out, re-tendering shall be resorted to, without considering the backed out tenderer.”

14. The aforementioned Clause 21.1 of the Instructions to the Bidders very specifically mentions that the backed out candidate will not be permitted to participate in the re-tendering process. The petitioner who being the registered vendor/contractor since last 10 years as per his own pleadings, knows of the very specific clause as mentioned above, wrote a letter on 12.08.2020 asking the respondents-authorities to permit him to participate in the re-tendering process.

15. Under clause 11.4 of PCP-2020, there is mention of the action to be taken against the bidder / tenderer, who backs out after becoming 'L-1', which is extracted below for ready reference.

“11.4 In case L-1 backs out, re-tendering should be resorted to in a transparent and fair manner without considering the backed out tenderer.

Besides forfeiting the EMD submitted by the said tenderer, the tenderer shall be kept under hold without issue of tender enquiries up to next one year including barring participation in open tenders with the approval of concerned HoD.”

16. Under the PCP-2020, it is mentioned in clear terms that action to be taken against the backed out 'L-1' tenderer of forfeiting the EMD submitted and to keep under hold the said tenderer without issue of

tender enquiries up to next one year with the approval of concerned HOD.

17. We have gone through the tender documents placed on record as Annexure P-2. In the tender document, there is no mention of applicability of PCP 2020 for any purposes. Under Clause 18(e) of the Instructions to the Bidders, which is reproduced in preceding paragraphs mentions about the forfeiture of earnest money besides any other action deemed fit on either of the following grounds. In the letter dated 11.8.2020, Respondents-Authorities have only mentioned to submit the reply by 12.8.2020, failing which legal action to be taken against the petitioner. The Respondents have not placed on any letter on record to show that the Respondents-Authorities have issued any letter / notice mentioning the proposed action to be taken against the petitioner. Even clause 18(e) of the Instructions to the bidders does not mention specifically that the action to be taken under the specific clause of PCP 2020 as mentioned under Clause 21 of the tender document that the suspension or banning of Business Dealings will be as per Circular dated 24.11.2014. There is no dispute that the petitioner has shown its intention vide Annexures P-4 & P-6 with regard to intention to work on almost double the rate, which was quoted by him and in subsequent letter the petitioner in clear terms mentioned for withdrawal of given abnormal prices of Rs.47,22,149/- and sought for fresh opportunity to participate in the reverse auction. From perusal of the contents of Annexures P-4 & P-6, the intention and the act of the petitioner was clear that he has withdrawn his bid.

18. So far as the ground raised and relief sought with regard to quashment / setting aside of the letter dated 29.8.2020 (Annexure P-1), the petitioner vide Annexure P-1 has been restrained from business dealings with the respondents, even though, he is registered contractor for the last 10 years. The action of keeping in hold and barring in the participation of open tender will definitely affect the right and interest of the petitioner and, that too, without following the principles of natural justice.

19. Before taking such a severe action against the petitioner, strict adherence to principles of natural justice was to be followed. Hon'ble Supreme Court, while considering the action of blacklisting taken against the contractor/tenderer has given the stress on issuing of the specific show cause notice to bear the contents and spelling, the clear action which is proposed to be taken. Mere mentioning of the action as deem fit and proper in letter / notice will not be sufficient.

20. Hon'ble Supreme Court in the matter of **Gorkha Security Services v. Government (NCT of Delhi) and others**⁵ held as under :-

“16. It is a common case of the parties that the blacklisting has to be preceded by a show cause notice. Law in this regard is firmly grounded and does not even demand much amplification. The necessity of compliance with the principles of natural justice by giving the opportunity to the person against whom action of blacklisting is sought to be taken has a valid and solid rationale behind it. With blacklisting many civil and/ or evil consequences follow. It is described as “civil death”

⁵ (2014) 9 SCC 105

of a person who is foisted with the order of blacklisting. Such an order is stigmatic in nature and debars such a person from participating in Government Tenders which means precluding him from the award of Government contracts.”

21. Recently, the Hon'ble Supreme Court in the matter of in the matter of **UMC Technologies Private Limited v. Food Corporation of India and Another**⁶ has again considered the issue and held thus :-

“21. Thus, from the above discussion, a clear legal position emerges that for a show cause notice to constitute the valid basis of a blacklisting order, such notice must spell out clearly, or its contents be such that it can be clearly inferred therefrom, that there is intention on the part of the issuer of the notice to blacklist the noticee. Such a clear notice is essential for ensuring that the person against whom the penalty of blacklisting is intended to be imposed, has an adequate, informed and meaningful opportunity to show cause against his possible blacklisting.”

22. Hon'ble Supreme Court in case of **UMC Technologies Private Limited** (Supra) has further taken into consideration about the requirement of making specific proposed action in the notice and held thus:

“25. The mere existence of a clause in the Bid Document, which mentions blacklisting as a bar against eligibility, cannot satisfy the mandatory requirement of a clear mention of the proposed action in the show cause notice. The Corporation's notice is completely silent about blacklisting and as such, it

could not have led the appellant to infer that such an action could be taken by the Corporation in pursuance of this notice. Had the Corporation expressed its mind in the show cause notice to black list, the appellant could have filed a suitable reply for the same. Therefore, we are of the opinion that the show cause notice dated 10.04.2018 does not fulfill the requirements of a valid show cause notice for blacklisting. In our view, the order of blacklisting the appellant clearly traversed beyond the bounds of the show cause notice which is impermissible in law. As a result, the consequent blacklisting order dated 09.01.2019 cannot be sustained.”

23. In the case at hand, the Respondents-Authorities in letter dated 11.8.2020 have only mentioned that **failing to reply in view of the contents of the letter, the Respondent-Authorities have to take legal action**, but there is no mention that what will be the action, which is proposed to be taken under which clause of Tender document or circular etc. Hence, we are of the considered view that Order dated 29.8.2020 (Annexure P-1) is passed in violation of principles of natural justice as no specific notice mentioning the proposed action has been issued to the petitioner.

24. As we have said that from the letters written by the Petitioner vide Annexures P-4 & P-6, it was clear that the petitioner has withdrawn his bid and liable for action to be taken against him in accordance with law, but even for the purposes of taking any action affecting the rights of the petitioner, even if proposed under Clause 11.4 of PCP -2020 is to be taken, can be taken only after issuance of specific notice in this regard.

The Respondent-Authorities have a discretion to withhold for any term up to one year. Hence, in the opinion of this Court, the petitioner could have an opportunity to give an explanation in the reply to the notice, if any, issued to him mentioning the proposed action and might have succeeded in convincing the Respondents-Authorities for keeping in hold for a lesser term. We are not commenting anything on the submissions made by learned counsel for the petitioner with regard to applicability of PCP-2020.

25. For the foregoing reasons, the order dated 29.8.2020 (Annexure P-1) is liable to be and is hereby set aside. However, the Respondents-Authorities will be at liberty to draw appropriate proceedings in accordance with law after issuing clear notice mentioning the proposed action under the relevant clause and thereafter to pass appropriate orders.

26. The writ petition is allowed to the extent sketched hereinabove.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge