

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2185 of 2020

- Ajeet Sharan Singh, S/o Trayambak Sharan Singh, Aged About 44 Years
R/o Pratappur, Tahsil - Pratappur, District - Surajpur Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Excise Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur Chhattisgarh
2. The Secretary, Government Of Chhattisgarh, Department Of Urban Administration and Development Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur Chhattisgarh
3. The Excise Commissioner, Chhattisgarh, Labhandi Chokra Nala, Raipur Chhattisgarh
4. The Collector, Surajpur, District - Surajpur Chhattisgarh
5. The District Excise Officer, District - Surajpur Chhattisgarh
6. The Chief Municipal Officer, Nagar Panchayat, Pratappur, District - Surajpur Chhattisgarh
7. The District Level Committee State Marketing Corporation Limited Through its Manager, District - Surajpur Chhattisgarh

---- Respondents

For Petitioner	: Shri Rahul Mishra, Advocate
For State	: Shri Chandresh Shrivastava, Dy AG
For Respondent-7	: Shri Malay Shrivastava, Advocate

**Hon'ble Shri Prashant Kumar Mishra, Actg CJ &
Hon'ble Shri Justice Parth Prateem Sahu**

Order on Board by Prashant Kumar Mishra, Actg CJ.

02.07.2021

- 1) Challenge in this petition is to the order dated 28.08.2020 (Annexure P1) by which the District Excise Officer, Surajpur has decided to obtain shop belonging to Municipal Council, Pratappur on rent for the purpose of establishing Foreign Liquor Shop at Pratappur.
- 2) It is argued that in terms of tender notice dated 17.06.2020, petitioner and four others had submitted their bids and offered their shop

on rent to the District Excise Officer, Surajpur for running the liquor shop. However, the bids submitted by the petitioner and other bidders have been rejected on the ground of non suitability of premises and thereafter, on 01.08.2020, the offer submitted by the Municipal Council, Pratappur was considered and accepted vide Annexure P1.

3) It is argued that any property belonging to a Municipality can be transferred after following the procedure laid down in the Chhattisgarh Municipalities (Transfer of immovable Property) Rules, 1996 (hereafter, referred to as 'the 1996 Rules') by public auction or by inviting offers in sealed covers for such transfer, which has not been followed in the present case, therefore, the action of Municipal Council offering shops for the State Government is patently illegal, as has been held by this Court in WPC-1019 of 2015 and other connected cases, decided on 12.04.2016.

4) Per contra, Shri Chandresh Shrivastava, learned Dy AG for the State and Shri Malay Shrivastava, learned counsel for respondent-7 submit that the decision to obtain the subject premises on rent has been taken after spot inspection by respondent-7 to assess the suitability of shop to run a liquor shop. They would further submit that during spot inspection, petitioner's shop was found to be under construction. It is also submitted that provisions of the 1996 Rules are not applicable to the case at hand.

5) Having heard learned counsel for the parties, and on perusal of documents available on record, we are of the considered view that the Writ Petition must fail. If we peruse the offer/tender submitted by the

petitioner himself, it clearly appears that the shop offered by him was under construction. Moreover, in the spot inspection carried out by respondent-7 it was found that building is not available and it is not technically suitable for running a liquor shop. Thus, the Committee opined the shop to be non-existing and not suitable for running the liquor shop.

6) Insofar as applicability of the 1996 Rules is concerned, it is to be appreciated that the Rules provide for holding public auction or inviting offers in sealed covers for transfer of immovable property belonging to the Municipal Council, by sale or lease or otherwise as a precondition. In the case at hand, the tender notice Annexure P2 clearly provides that the sealed offers are invited for obtaining shop on rent. Thus, the present not being a case of transfer of immovable property, the 1996 Rules are not applicable.

7) When the petitioner's shop is under construction and not suitable, he will be deemed to be ineligible to offer his shop, which is not existing. Therefore, applying the principle that an in-eligible tenderer cannot challenge the tender process, the petitioner has failed to make out any ground for interference. Accordingly, the Writ Petition is dismissed.

Sd/-
Actg Chief Justice
(Prashant Kumar Mishra)

Sd/-
Judge
(Parth Prateem Sahu)