

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 64 of 2021

M/s Divakriti Construction, Through Proprietor Prashant Divakriti,
S/o, Late Shri T.P. Divakriti, Aged About 62 Years, R/o, Shankar
Nagar Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Transport, Mantralaya, DKS Building, Raipur Chhattisgarh.
2. The Collector, Raipur Chhattisgarh.
3. The Joint Director, Town And Country Planning Department, District - Raipur Chhattisgarh.
4. The Executive Engineer, Madhya Pradesh State Road Transport Corporation, Bhopal (M.P.)
5. Chhattisgarh Infrastructure Development Corporation (CiDC), Through Managing Director, Raipur Chhattisgarh.

---Respondents

For petitioner – Shri Aditya Tiwari, Advocate.
For State – Ms. Shriya Mishra, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

03/02/2021

Heard.

1. Challenge in this petition is to the order dated 21/01/2020 (Annexure P-1) wherein a representation of the petitioner has been dismissed.
2. Learned counsel counsel for the petitioner would submit that in the year 1996 the petitioner was allotted certain land for construction by the erstwhile State Road Transport Corporation before the bifurcation and certain houses were to be constructed for the employee. Acceptance of the tender was in the year 1996. Subsequently, the petitioner could not start the construction for the reason that the land was not vacant. Thereafter in the year 2000 reorganization took place and thereafter the petitioner sought for information as to whether the land was got vacated or

not and what is the position of the tender, it was informed that initially the tender work was rejected by order dated 18/04/2000 which finds place at Annexure P-13, however same was revived on 30/05/2001. Thereafter the petitioner have filed writ petition bearing W.P. No. 711/2005 which is filed as Annexure P-11 wherein this Court on 15/11/2017 has directed to file a representation and the said representation having been decided by order dated 21/01/2020 (Annexure P-1), the same is under challenge. Learned counsel submits that the petitioner since was not given the vacant land as such despite grant of tender he could not start the work and the tender was not annulled, therefore the respondent may be directed to honour the terms of the tender which was earlier granted in his favour and accordingly Anneuxre P-1 be quashed.

3. Learned State counsel opposes the argument and submits that the petition is barred by efflux of time.

4. Perusal of the rejection of the representation dated 21/01/2020 reflects that the tender granted to the petitioner was cancelled on 18/04/2000 and even otherwise after bifurcation of the State since the entire asset and liability of the M.P. State Road Transport Corporation devolved on Chhattisgarh Infrastructure Development Corporation Limited the State Government had taken back the land of 2.36 acres and was transferred to the PWD for construction of the house for the government quarters and the quarters have already been constructed. Therefore fresh allotment of the land cannot be made. Initially the tender which was granted in favour of the petitioner was in the year 1996, more than 25 years have passed as of now. The petitioner it appears was dormant about his right and after long lapse when already the construction by PWD has been carried out in the said land, the petitioner is agitating his claim. The writ petition suffers with gross delay and latches. Further more the grant in favour of petitioner by the agreement would be impossible to

perform as of now as the construction has already been made and it would amount to frustration of the contract under Section 56 of the Indian Contract Act, 1872, therefore no relief can be granted as of now.

5. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE