2026:CGHC:14959-DB



**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPC No. 1437 of 2026**

M/s. Prem Chand And Company A Partnership Firm Having Office At- 309, 2nd Floor, Eskey Plaza, Near Anand Talkies, Raipur, 492001 Through Its Managing Partner- Sajay Kumar Agrawal S/o Late Motilal Agrawal, Aged About 55 Years, R/o Plot No. 35, Phase 2, Labhandi, Magneto Signature Homes, Raipur, Distt. Raipur (C.G.)

**... Petitioner(s)**

**versus**

**1 -** State Urban Development Agency (Suda), Through Its Chief Executive Officer, Having Office At- Indrawati Bhawan, Block- D, 4th Floor, Atal Nagar, Nava Raipur, Distt. Raipur, Chhattisgarh

**2 -** Chief Executive Officer State Urban Development Agency (Suda), Having Office At- Indrawati Bhawan, Block- D, 4th Floor, Atal Nagar, Nava Raipur, Distt. Raipur Chhattisgarh

**3 -** State Of Chhattisgarh Through Secretary, Department Of Urban Administration And Development (Uad), Having Office At- Indrawati Bhawan, Block- D, 4th Floor, Atal Nagar, Nava Raipur, Distt. Raipur, Chhattisgarh

**... Respondent(s)**

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| For Petitioner(s) | : | Mr. Shivam Agrawal, Advocate along with Mr. Hemant Kumar Agrawal, Advocate |
| For Res. No. 1 and 2 | : | Mr. Rishabh Garg, Advocate |
| For State | : | Mr. Prasoon Bhaduri, Dy. A.G. |

**Hon'ble Shri Ramesh Sinha, Chief Justice**

**Hon'ble Shri Ravindra Kumar Agrawal, Judge**

**Order on Board**

***Per* Ramesh Sinha, Chief Justice**

**01/04/2026**

1. Heard Mr. Shivam Agrawal, along with Mr. Hemant Kumar Agrawal, learned counsel for the petitioner. Also heard Mr. Prasoon Bhaduri, Dy. Advocate General, appearing for the Respondent/State and Mr. Rishabh Garg, learned counsel for the Respondent No. 1 and 2.

2. By this petition under Article 226 of the Constitution of India, the petitioners seek for the following relief(s):

> "1. That, this Hon'ble Court may kindly be pleased to call for the entire records pertaining to the Tender (Request for Proposal) "RFP for Engagement of Consultant for conducting Post Audit, Pre/Internal Audit & Statutory Compliance in Durg Cluster-48 ULBs of Chhattisgarh State." (2nd Call) bearing RFP No. 8183/STN-186680/SUDA/IA/2026 DATED 02/03/2026 (System Tender No. 186680) floated by Respondent Nos. 01 & 02 in the Chhattisgarh Government Integrated e-Procurement Portal [ULB Urban Local Body).
>
> 2. That, this Hon'ble Court may kindly be pleased to issue appropriate Writ(s), Order(s), Direction(s) to quash the arbitrary & illegally 2nd Call for tender

(Request for Proposal) bearing RFP No. 8183/STN-186680/SUDA/IA/2026 DATED 02/03/2026 (System Tender No. 186680) [Dated 03/03/2026 as per the Corrigendum Notice floated by Respondent Nos. 01 & 02 in the Chhattisgarh Government Integrated e-Procurement Portal for "RFP for Engagement of Consultant for conducting Post Audit, Pre/Internal Audit & Statutory Compliance in Durg Cluster-48 ULBs of Chhattisgarh State." (2nd Call).

3. That, in the alternate, this Hon'ble Court may kindly be pleased to issue appropriate Writ(s), Order(s), Direction(s) to respondent authorities to offer the opportunity of participation in the tender process to the Petitioner Partnership Firm and to give sufficient-time to it to apply/bid with respect to the 2nd Call for tender.

4. That, this Hon'ble Court may kindly be pleased to set-aside/quash the "restrictive minimum eligibility criteria exclusive to ULB [Urban Local Body] experience" which suffers from the vices of illegality & arbitrariness.5. That, this Hon'ble Court may kindly be pleased to issue appropriate orders/directions to the subject authorities to correct/relax the illegal & arbitrary restriction imposed by the respondent SUDA authorities with

respect to the minimum eligibility criteria to participate in the 2nd Call for tender (System Tender No. 186680) & to instead allow the participation of firms having experience in State/ Central Government or PSUs. Departments, organizations, inter alia. Semi-Government

6. That, this Hon'ble Court may kindly be pleased to issue appropriate orders/directions to the subject authorities to have the 2nd Call for tender (System Tender No. 186680) floated in the Government e Marketplace (GeM) Portal, as per the letter dated 01.09.2025 written by the Secretary to the Department of Commerce & Industry, Government of Chhattisgarh.

7. Cost of the petition & compensation for the mental agony, harassment & the hardships accrued to the petitioner because of the arbitrary & illegal act of the respondent authorities.

8. That, this Hon'ble Court may grant any other relief in favour of the Petitioner, which it deems fit in the facts and circumstances of the case, in the interest of justice.”

3. The brief facts of the case are that, the Petitioner is a well-established partnership firm of Chartered Accountants, registered under

the Chartered Accountants Act, 1949, having extensive experience in conducting internal audit, pre/post audit, and statutory compliance assignments. The Petitioner is desirous of participating in the tender process initiated by Respondent No. 1 – State Urban Development Agency (SUDA), through Respondent No. 2, for engagement of a consultant for conducting Post Audit, Pre/Internal Audit and Statutory Compliance in Durg Cluster (48 ULBs) of the State of Chhattisgarh, pursuant to RFP dated 02.03.2026 (2nd Call). However, the Petitioner is aggrieved by the arbitrary and restrictive eligibility condition contained in Clause 3.12.3, which mandates prior experience in at least 10 Urban Local Bodies, thereby unreasonably excluding otherwise competent firms despite the evaluation criteria recognizing broader experience in Government, PSU and semi-government organizations.

4. That, the Petitioner raised its concerns regarding such restrictive and inconsistent eligibility criteria through a representation dated 10.03.2026 and also during the pre-bid conference held on 11.03.2026; however, the Respondents, without considering the objections or passing any speaking order, issued a corrigendum dated 16.03.2026 maintaining the impugned condition. The tender process is further vitiated by arbitrary QCBS weightage of 80:20, lack of transparency, and non-publication on the GeM portal, which collectively restrict fair competition and indicate mala fide intent. Left with no efficacious alternative remedy, the Petitioner has approached this Court challenging the impugned tender conditions and the arbitrary conduct of the Respondents.

5. Learned counsel appearing on behalf of the petitioner, submits that, the impugned tender process initiated by the Respondent authorities is vitiated by arbitrariness, illegality and lack of transparency, thereby offending Articles 14, 19(1)(g) and 21 of the Constitution of India. The restrictive eligibility condition under Clause 3.12.3, mandating prior experience exclusively in a minimum of 10 ULBs, is wholly irrational and inconsistent with Clause 4.5 of the RFP, which recognizes experience in State/Central Government Departments, PSUs and Semi-Government organizations for the purpose of technical evaluation. Such internal inconsistency creates an artificial barrier, unjustifiably excluding otherwise competent and experienced firms like the Petitioner, thereby violating the doctrine of level playing field and defeating the very objective of fair competition in public procurement.

6. It is further submitted that the Respondents have acted in a non-transparent and unreasonable manner by ignoring the Petitioner's representation and issuing a corrigendum without any speaking order. The adoption of an 80:20 QCBS ratio for a routine audit assignment is contrary to established procurement guidelines and disproportionately diminishes financial competitiveness. Additionally, the failure to publish the tender on the GeM portal and the cumulative effect of restrictive conditions indicate a mala fide intention to limit participation and favour select entities. In light of settled law laid down by the Hon'ble Supreme Court in **Tata Cellular Vs. Union of India (1994) 6 SCC 651, Reliance Energy Ltd. vs. Maharashtra State Road Development Corpn. Ltd (2007) 8 SCC 1** and other judgments, the impugned action is liable to

be set aside as it suffers from illegality, irrationality and procedural impropriety, warranting interference by this Hon'ble Court in exercise of its power of judicial review.

7. On the other hand, learned counsel for the respective respondents would submit that that the present petition is devoid of merit and liable to be dismissed, as the tender conditions impugned by the Petitioner fall squarely within the domain of policy decision and administrative discretion of the tender inviting authority. The eligibility criteria prescribed under Clause 3.12.3, requiring experience in a minimum number of Urban Local Bodies (ULBs), has been consciously designed keeping in view the nature, scale, and specific requirements of the assignment pertaining to urban governance and municipal audit systems, and thus bears a rational nexus with the object sought to be achieved. Merely because the technical evaluation criteria under Clause 4.5 recognizes broader experience does not render the eligibility condition arbitrary, as pre-qualification and evaluation operate in distinct fields. It is further submitted that the QCBS ratio of 80:20 is justified to ensure quality-based selection for a sensitive and large-scale assignment involving multiple ULBs, and no statutory provision mandates a fixed ratio. The allegations regarding mala fide intent, lack of transparency, or non-publication on the GeM portal are wholly baseless and unsupported by evidence. It is settled law that courts do not interfere in tender matters unless the decision-making process is shown to be patently arbitrary, discriminatory, or actuated by mala fides, which is not the case herein. Hence, the present petition deserves to be

dismissed.

8. We have learned counsel for the parties, perused the material annexed with the petition.

9. The Hon’ble Supreme Court in the case of ***Tata Motors Limited v The Brihan Mumbai Electric Supply & Transport Undertaking (Best) and Others*** passed in Civil Appeal No. 3897 of 2023 vide judgment dated 19.05.2023 held as follows :

> *“48. This Court being the guardian of fundamental rights is duty-bound to interfere when there is arbitrariness, irrationality, mala fides and bias. However, this Court has cautioned time and again that courts should exercise a lot of restraint while exercising their powers of judicial review in contractual or commercial matters. This Court is normally loathe to interfere in contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or irrationality is made out. One must remember that today many public sector undertakings compete with the private industry. The contracts entered into between private parties are not subject to scrutiny under writ jurisdiction. No doubt, the bodies which are State within the meaning of Article 12 of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of superior courThe Hon’ble Supreme Court in the case of* ***Tata Motors Limited v The Brihan Mumbai Electric Supply & Transport Undertaking (Best) and Others*** passed in Civil

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*magnifying glass while scanning the tenders and make every small mistake appear like a big blunder. In fact, the courts must give "fair play in the joints" to the government and public sector undertakings in matters of contract. Courts must also not interfere where such interference will cause unnecessary loss to the public exchequer. (See: **Silppi Constructions Contractors v. Union of India, (2020) 16 SCC 489**)*

*52. Ordinarily, a writ court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer unless something very gross or palpable is pointed out. The court ordinarily should not interfere in matters relating to tender or contract. To set at naught the entire tender process at the stage when the contract is well underway, would not be in public interest. Initiating a fresh tender process at this stage may consume lot of time and also loss to the public exchequer to the tune of crores of rupees. The financial burden/implications on the public exchequer that the State may have to meet with if the Court directs issue of a fresh tender notice, should be one of the guiding factors that the Court should keep in mind. This is evident from a three-Judge Bench decision of this Court in **Association of Registration Plates v. Union of India and Others, reported in (2005) 1 SCC 679**.*

*53. The law relating to award of contract by the State and public sector corporations was reviewed in* ***Air India Ltd. v. Cochin International Airport Ltd.,*** *reported in* ***(2000) 2 SCC 617*** *and it was held that the award of a contract, whether by a private party or by a State, is essentially a commercial transaction. It can choose its own method to arrive at a decision and it is free to grant any relaxation for bona fide reasons, if the tender conditions permit such a relaxation. It was further held that the State, its corporations, instrumentalities and agencies have the public duty to be fair to all concerned. Even when some defect is found in the decision-making process, the court must exercise its discretionary powers under Article 226 with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. The court should always keep the larger public interest in mind in order to decide whether its intervention is called for or not. Only when it comes to a conclusion that overwhelming public interest requires interference, the court should interfere.*

*54. As observed by this Court in* ***Jagdish Mandal v. State of Orissa and Others,*** *reported in* ***(2007) 14 SCC 517****, that while invoking power of judicial review in matters as to tenders or award of contracts, certain special features should be borne in mind that evaluations of tenders and*

> *awarding of contracts are essentially commercial functions and principles of equity and natural justice stay at a distance in such matters. If the decision relating to award of contract is bona fide and is in public interest, courts will not interfere by exercising powers of judicial review even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. Power of judicial review will not be invoked to protect private interest at the cost of public interest, or to decide contractual disputes.*"

10. Upon perusal of the judgment passed by the Hon'ble Supreme Court in **Tata Motors Limited** (Supra), as the Apex Court has categorically held that judicial review in contractual and tender matters must be exercised with great restraint and only in cases where clear arbitrariness, mala fides, bias or irrationality is demonstrated, in the present case, no such exceptional circumstance is made out. The impugned eligibility conditions requirig prior experience in ULBs has a reasonable nexus with the nature of the work and can not be termed as arbitrary or discreminatory merely because it excludes the petitioner. The scope of judicial review in contractual and tender matters is limited and the Court ordinarily does not interfere unless the decision-making process is found to be arbitrary, irrational or contrary to law, which is not established in the present case.

11. It is also considered that the conditions stipulated in the impugned tender, including the eligibility criteria and evaluation methodology, fall within the exclusive domain of the tender inviting authority and are

matters of policy, formulated in view of the specific requirements of the project. The Petitioner has failed to demonstrate that the said conditions are manifestly arbitrary, discriminatory, or actuated by mala fide intent. Mere dissatisfaction with the eligibility criteria or an attempt to seek relaxation thereof cannot be a ground for judicial review. It is well settled that this Court does not sit as an appellate authority over administrative decisions in contractual matters and will interfere only when the decision-making process is vitiated by illegality, irrationality, or procedural impropriety, which is not established in the present case. The impugned tender conditions are uniformly applicable to all bidders and are neither tailor-made nor exclusionary in nature.

12. Hence, in light of the settled legal position, the present petition being devoid of merit, and liable to be and hereby **dismissed**, leaving the petitioner to avail appropriate alternative remedies available under law.

| Sd/- | Sd/- |
|---|---|
| **(Ravindra Kumar Agrawal)** | **(Ramesh Sinha)** |
| Judge | Chief Justice |

**sagrika**