

**(2014) 08 OHC CK 0056**  
**In the Orissa High Court**  
**Case No : W.P. (C) No. 13334 of 2014**

Arun Kumar Mohanty

APPELLANT

Vs

State of Odisha

RESPONDENT

**Date of Decision :** 27-08-2014

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2014) 08 OHC CK 0056

**Hon'ble Judges :** Amitava Roy, C.J;B.R. Sarangi, J

**Bench :** Division Bench

**Final Decision :** Dismissed

## Judgement

1. Heard Mr. Gautam Misra, learned counsel for the petitioner.
2. The petitioner, a bidder in the process initiated by the tender call notice dated 24.5.2014 for appointment of transport agent for transportation of food stuff under the Mid Day Meal (MDM) programme in the district of Jajpur for the year 2014-15, is before this Court being aggrieved by the cancellation of the said exercise and launching a fresh process by notice dated 10.07.2014 for the same work.
3. Briefly stated, the facts are that the petitioner had offered his candidature along with two other tenderers, namely, M/s. C.B.M. Transport and M/s. Maa Tarini Enterprises for the said work. According him, on an evaluation of the tenders, only he had qualified in the technical bid and resultantly his price bid was opened and declared. The bids of other two were rejected on technical grounds. Eventually the Tender Committee in its meeting held on 18.6.2014 accepted his offer of Rs. 56.70 per quintal, and thus, unanimously resolved to approve the said rate, but observed that as there was no scope for comparison of rate thereof due to rejection of technical bid of other two tenderers, Collector, Jajpur would have the discretion either to accept the same or to reject it as the valid tender was a single one. The Collector, Jajpur, however, cancelled the

tender of the petitioner as it was a "single tender" and ordered that a fresh tender process be initiated. Being aggrieved, to reiterate, the petitioner seeks judicial intervention against the said cancellation.

4. Learned counsel for the petitioner has insistently urged that the Tender Committee having recommended his (petitioner's) bid to be accepted on conscious consideration of relevant aspects, the Collector, Jajpur had apparently fell in error in rejecting the same on the purported ground that it was a "single tender". He argued that single tender of other firms vis-?-vis identical works had been accepted and acted upon and thus the decision to cancel the petitioner's bid on the ground of "single tender" is apparently arbitrary and discriminatory and thus the impugned decision lacks in reasonableness, objectivity and rationale and is thus liable to be declared null and void.

5. On a consideration of the pleaded facts and the documents on record, we are not inclined to sustain the arguments advanced. Apparently, on the cancellation of the bids of other two tenderers, the tender of the petitioner had been reduced to "single tender". In the facts and circumstances, the Collector, Jajpur had the discretion either to accept or reject the same, which is more than apparent from the materials on record. As such, the impugned decision, on the ground that the petitioner's tender was a "single tender", cannot be criticized to be lacking in competence. The petitioner's tender being a singular tender, logically it was not subjected to a comparative evaluation with other competing offers. On the aspect of discrimination, when queried by this Court, learned counsel for the petitioner could not draw our attention to any material on record to establish any striking identicalness of the offer made by him (petitioner) wherein single tender of other tenderers for same work were accepted.

6. Having regard to the constricted scope of interference in exercise of power of judicial review, in such matters, we are constrained to hold, having regard to the prevalent facts and circumstances, that no case for intervention under Article 226 of the Constitution of India has been made out.

The petition lacks in merit and is dismissed.

No costs.