

(2010) 05 SHI CK 0105
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 1071 of 2010

Partap Singh Chauhan	Vs	APPELLANT
State of H.P. and Another		RESPONDENT

Date of Decision : 03-05-2010

Acts Referred:

Citation : (2010) 05 SHI CK 0105

Hon'ble Judges : Kurian Joseph, C.J;R.B. Misra, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The writ petition is filed with the following prayers:

i) For issuing a writ of Certiorari for quashing condition No. 2 in annexure P-5 i.e. Notice Inviting Tenders by 26.3.2010 for construction of Rajpura Negheta Bharli Banour Road in Tehsil Shillai District Sirmour.

ii) For issuing a writ of Mandamus to the respondents for considering the tenders afresh by permitting the petitioner to participate in the tender in question by treating him to be eligible to participate in the tender process for construction of Rajpura Negheta Bharli Banour Road in Shillai District Sirmour.

2. According to the petitioner having been permitted to get registration as "A" Class Contractor, unless the petitioner is able to gain experience, it will be highly unreasonable to exclude contractors like the petitioner who got the "A" class registration in the year 2007. The very purpose of grant of registration would be defeated, it is submitted. It is also submitted that the NABARD is only a funding agency and that NABARD had no such insistence. Still further, it is submitted that hitherto and the conditions notified in the tender used to be relaxed. Even after the issuance of the present tender notification also it was relaxed and the petitioner himself is the beneficiary of one such relaxation, as can be seen from Annexure P-9. According to the learned Deputy Advocate General, no condition was relaxed in favour of the petitioner in Annexure P-9. It is also submitted that during the past, the conditions were relaxed since there were no tenderers who

satisfied the notified conditions; whereas this year there are two such applicants and the petitioner along with seven others who did not satisfy the notified conditions were not permitted to participate in the tender process. The two, as per the conditions became eligible and their case is being processed. It is stated in paragraph-8 of the reply that the petitioner could have approached the State with his grievances.

The most efficacious or appropriate remedy for the redressal of his grievances lie with the higher authority of the respondent State but he has knowingly by passed all such channel.

3. In view of the various submissions made by the learned Counsel for the petitioner, some of which are referred to above and in view of the stand taken in the reply, we are of the view that a chance is to be given to the petitioner to approach the first respondent. Therefore, this writ petition is disposed of as follows:

4. It will be open to the petitioner to point out his grievances before the first respondent within one week from today, in which case, the first respondent shall consider the same and appropriate action in accordance with law in the matter will be taken by the first respondent within another one week.

5. Interim order dated 30th March, 2010, passed by this Court will continue for the said period of two weeks.