

7.4.2016

Shri Shekhar Sharma, Advocate for the petitioner.

Shri Pushpendra Yadav, G.A., for the respondents/State.

Heard counsel for the petitioner.

The limited relief claimed in this petition is to issue direction to the respondents to issue letter of acceptance of the work of construction of Budhangaon, Nosirabad, Nandakhedi to Manoranjan Dhaba (Bhopal road) Nagmaharaj Fhata Sumarakhedi, Bhourasa to Mrijapur Bheru Khatra Road & Devgarh) to Jalariya Road, Total length (12.00 + 7.28 + 4.49 = 24.22 km) in favour of the petitioner.

According to the petitioner, once the NIT process was set into motion, it was not open to the employer to terminate the same when it had reached the final stage and that too without assigning any reason. According to the petitioner, fresh NIT cannot be issued without cancellation of the earlier NIT.

This plea is expressly taken in paragraph 5.7. This is the only issue that may require attention of the Court. As the law is well established, it is the prerogative of the employer to terminate the NIT process at any stage until

the bid is accepted. No reason is required to be assigned to the participants for cancellation of NIT process and for adopting a fresh NIT process for the same subject matter. In case, decision has been taken to cancel the NIT process and thereafter to start fresh process, the relief as claimed in this petition cannot be granted.

The argument of malafide also does not commend to us because no person by name has been impleaded as respondent against whom specific plea of bias in favour or against the petitioner has been asserted.

Hence, for the limited to the averments made in paragraph No.5.7, we call upon the respondents to file reply and clearly state that whether the previous NIT process, in which the petitioner participated, has been cancelled or otherwise.

We are not granting any interim relief in this petition, but, at the same time make it clear that the fresh NIT process, which is not that subject matter of challenge in this petition can proceed and no interim relief has been granted in that behalf. However, what would be the effect of allowing the petition, that issue can be considered at appropriate stage.

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**W.P. No.6117 of 2016**

Reply be filed before 12.4.2016.

List on **13.4.2016**.

**(A. M. Khanwilkar)**  
Chief Justice

**(Sanjay Yadav)**  
Judge

*Khan\**