Court matter

Himachal Pradesh
Public Works Department
NO.PW.LC-CWP NO.429/2016- 323-453 Dated:- 16-4-16
To

1. The Engineer-In-Chief
   Design & Quality Control
   HP.PWD.Shimla.1
2. All the Chief Engineers
   In HP.PWD.
3. All the Superintending Engineers
   In HP.PWD. including National Highway,
   Mechanical and Electrical.
4. All the Executive Engineer
   In HP.PWD.including National Highway,
   Mechanical and Electrical.

Subject: - CWP No.429/2016- titled as Rajesh Kumar & Ors V/s State of H.P. &CWP NO.4456/2016- titled as Chandan Swaroop Sharma and others.

The subject cited writ petitions involving vires of New enlistment rules were listed before the Hon'ble High Court on 1.04.2016 when after hearing the matter the Hon'ble Court has been pleased to dismiss both these writ petitions with findings in operative paras as under:-

13. We entertain no doubt in our minds that all this has been done with the sole aim and objective to ensure that the big contractors now confine themselves to 'A' and 'B' class and do not barge into the contracts otherwise reserved for 'C' and 'D' class. This would not only bring about a healthy competition amongst the equals and would also ensure that these equals may also gain sufficient experience of work so that after gaining work done experience, they are also upgraded to higher class to minimize monopoly of 'A' and 'B' class contractors on work done basis.

14. We cannot ignore the fact that the contractors belonging to 'C' and 'D' categories are mostly unemployed educated youth, who are unable to compete with the 'A' and 'B' contractors. Therefore, the aforesaid provision would atleast ensure that every enlisted category of contractor would only have to face a healthy competition as per his enlisted class thereby not only providing him an opportunity to earn his livelihood but would also provide him an opportunity to upgrade his class.

15. The respondents in their reply to CWP No. 4456 of 2015 have specifically stated that in the old Enlistment Rules, 1967, there was a provision for up-gradation from 'D' class to 'C' class on the basis of performance after a contractor had completed work of ₹10 lacs in aggregate or three works not less than 1.50 lacs. Similarly, 'C' class

contractor after completing work of ₹ 30 lacs in aggregate or three works of not less than ₹7.50 lacs each used to be upgraded to 'B' class and similarly 'B' class contractor used to be upgraded to 'A' class if he had successfully completed without any penalty and liquidated damages of three works of ₹25 lacs each or combined works in last 5 years amounting to ₹1.25 crore. Whereas, in the new Enlistment Rules, 2015, this criteria of work done as well as eligibility criteria to participate in the tendering process has been increased. Needless to add that even the petitioners have been enlisted as 'A' and 'B' class contractors only by way of up-gradation.

16. The respondents have further categorically stated and proved on record that even in terms of new criteria, none of the petitioners would be excluded from competing in their respective classes and also in a class which is one step below.

17. In view of the aforesaid discussion, we find no merit in these petitions and the same are accordingly dismissed alongwith pending applications, leaving the parties to bear their costs.

The Registry is directed to place a copy of this judgment on the file of connected matter".

Detailed copy of this judgement may also be down loaded from the website of Hon'ble High Court of H.P. for kind perusal and taking further necessary action.

You are therefore requested to please take further necessary action on the issue as per directions passed by the Hon'ble High Court and also brought this judgement to the notice of all the A.E's & J.E's working under your jurisdiction to meticulously follow the provisions in processing bids of contractors on various such tenders

Encl: Nil

Engineer-In-Chief
HP.PWD. Nirman Bhawan
Shimla-2

Copy forwarded for information and necessary action to:-

1. The Additional Chief Secretary (PW) to the Govt. of H.P.
2. The Joint Controller (CTR) in this office.
3. Superintendent, I.T. Section with a request to place this letter alongwith copy of judgement on deptt.website for kind perusal and necessary action all.

Engineer-In-Chief
HP.PWD. Nirman Bhawan
Shimla-2