



2026:UHC:3722-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE SHRI SUBHASH UPADHYAY

14th May, 2026

Writ Petition (M/B) 344 of 2026

MS Patni Engineering and Construction

-----Petitioner

Versus

State of Uttarakhand and others

-----Respondents

Presence:-

Ms. Abhijay Negi and Mr. Ayush Pokhriyal, learned counsel for the petitioner.

Mr. B.P.S.Mer, learned Standing Counsel for the State.

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JUDGMENT: (per Manoj Kumar Gupta, C.J.)

The present writ petition has been filed by the petitioner seeking quashing of Clause 11.1 Sub-Clause (A) (ix) of Section-II-Instructions to the Bidders (ITB) of the Tender bearing number 2026_pwd_ 93700_1 dated 30.04.2026 issued by the Public Works Department, 2nd Circle, Nainital, and for issuance of a writ of mandamus directing respondent no.2 to issue a fresh tender notice after deleting the said arbitrary condition and after disclosing the necessary information in respect of Bill of Quantities (BOQ) in terms of Clause 4.7.3 of the Procurement Rules, 2025.



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2. The brief facts necessary for disposal of the instant petition are that respondent no.2 issued an advertisement on 23.03.2026 inviting bids through e-tendering process for 'Hill side cutting and muck disposal work (II Phase Stage 1) and Construction of wall and cross drainage work (II Phase Stage-II) in Kathgodam to Ranibag Section of National Highway No. 87 (109) under State Sector (Hon'ble Chief Minister's Announcement No. 550/2019), in Bhimtal Assembly Constituency of Nainital District".

3. The petitioner is also stated to have submitted its bid along with other persons in pursuance of the said advertisement. While the tender process was underway, the instant writ petition came to be filed, assailing Clause 11.1 of the ITB, which is as follows:

"11 Document Constituting the Bid.

11.1 The Bid should be uploaded in the E-procurement Portal under a two Bid document system comprising the following documents.

ix. Bidder shall submit the certificate issued by the Executive Engineer of concerning division, that, "the bidder has visited the site with departmental Engineers", along with Tender cost, Bid security declaration, Registration etc. Without certificate the Bid will be treated non-responsive for opening of Technical Bid."

4. The case of the petitioner is that the



condition requiring the intending bidder to visit the site with Departmental Engineer and submit a certificate issued by the Executive Engineer of the concerned division to the effect that the bidder had visited the site is illegal and arbitrary. It is submitted that the said condition was wholly unnecessary and it has not served any logical purpose, on the other hand, it imposes a wholly arbitrary restriction upon the intending bidders.

5. The second contention of the petitioner is that under Rule 4.7.3 of the Uttarakhand Procurement Rules 2025, the respondents were required to specify the rates of individual items of work listed in the Bill of Quantities, whereas, while issuing the tender, the respondents have only specified the total estimated cost. The contention is that the intending bidders would not know the estimated value of individual items, thus seriously prejudicing the bidders.

6. Learned counsel for the State has obtained written instructions from the Executive Engineer, Temporary Division, PWD, Bhowali, dated 12.05.2026 and the same has been placed on record. A copy of the same has also been provided to the learned counsel for the petitioner.

7. The stand taken therein is that on basis of objections of bidders to Clause 11.1 Sub-Clause (A)



(ix), it has been deleted by issuing a corrigendum dated 04.05.2026, A copy of the said corrigendum dated 04.05.2026 has also been enclosed along with the written instructions.

8. Learned counsel for the petitioner very fairly concedes that the first contention, therefore, does not survive for consideration.

9. In respect of the second contention, learned State Counsel has placed reliance on Rule 4.2.3 of the Procurement Rules. According to him, the work-in-question fell under the scope of Rule 4.2.3 where only an estimated lump sum amount is required to be disclosed. It is submitted that the estimated value of the contract is above 10 lacs, therefore, Rule 4.2.2, which relates to Item Contract was not applicable.

10. We have gone through the Rule 4.2.2 and 4.2.3. The contract-in-question, as noted above, was for estimated value of Rs. 546.83 lacs, far more than Rs. 10 lacs.

11. The work under the contract involves hillside cutting, its disposal work and construction of wall and cross drainage work in Kathgodam to Ranikhet section of National Highway No. 87. Learned State Counsel has emphasized that the work under the contract involves



designing, procurement and execution and, therefore, it would fall under Rule 4.2.3. It is urged that Rule 4.2.2 applies only to work of emergent nature, which could not be delayed and thereunder, the time frame for concluding the tender process is also much less as compared to the detailed tendering process to be followed under Rule 4.2.3 in higher value lump sum contracts.

12. We find considerable force in the contention of learned State Counsel. Concededly, the contract is of estimated value of much more than 10 lacs, therefore Rule 4.2.2 would not apply.

13. Petitioner has also submitted his bid in pursuance of the NIT and we find no good ground to interfere in the tender process.

14. The petition lacks merit and is accordingly dismissed.

15. The interim order stands vacated.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 14.05.2026
Kaushal