

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.256 of 2014

In

Civil Writ Jurisdiction Case No. 11185 of 2013

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1. The State of Bihar through its Principal Secretary, Department of Water Resources, Government of Bihar, Patna, P.S.-Patna Sachivalaya, District-Patna.
 2. Engineer-in-Chief (North), Water Resources Department, Government of Bihar, Patna, P.S.-Patna Sachivalaya, District-Patna.
 3. Chief Engineer, Planning & Monitoring, Water Resources Department, Government of Bihar, Patna, P.S.-Patna Sachivalaya, District-Patna.
 4. Departmental Tender Committee through its Chairman, Water Resources Department, Govt. of Bihar, Patna, P.S.-Patna Sachivalaya, District-Patna.
 5. Chief Engineer, Water Resources Department, Gaya, P.S.-Gaya Town, District-Gaya.
 6. Superintending Engineer, Water Ways Circle, Ghoshi, Jehanabad, P.S.-Ghoshi, District-Jehanabad.
 7. Superintending Engineer, Planning & Monitoring, Water Resources Department, Government of Bihar, Patna, P.S.-Patna Sachivalaya, District-Patna.
 8. Executive Engineer, Water Ways Division, Udera Asthan, Jehanabad, P.S.-Udera Asthan, District-Jehanabad.

.... Petitioners

Versus

Hanumant Construction Private Limited having its registered office at Prabhani Complex, Civil Lines, Raipur through its A.G.M. Project and Authorised Representative Shri Priyaranjan Sharma, son of Shri Baleshwar Sharma, resident of village-Babhana, Ward no.2 of Jehanabad Municipal Area, P.O.-Bhabhana, District-Jehanabad.

.... Respondent/Opposite Party

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Appearance :

For the Petitioners : Mr. Siddhartha Prasad

For the Opposite Party : Mr. Tuhin Shankar

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 15-01-2015 Heard the parties.

The State of Bihar and its functionaries, who were respondents in CWJC No.11185 of 2013, have filed the present civil review application seeking clarification of the order dated 26.11.2013 passed in the aforesaid CWJC No.11185 of 2013 by a Bench of this Court (Coram : Jayanandan Singh, J. since superannuated).

The operative part of the order dated 26.11.2013 is reproduced hereinbelow:-

“This writ application is, accordingly, disposed of with a direction to the respondents that, instead of initiating a fresh tender process by issuing fresh NIT, they shall enter into a negotiation with all the three tenderers whose financial bids and rate quoted have been found equal. The respondents shall be at liberty to accept the lowest offer and enter into agreement and allot the work on that basis. In case none of the three tenderers agree to enter into negotiation, respondents shall be at liberty to proceed with fresh tender process.”

Learned counsel appearing on behalf of the review-petitioners by referring to the averments made in paragraph 7 of the review application submits that, out of the three bidders referred to in the order dated 26.11.2013, two of them have withdrawn their earnest money and thereby, they have gone outside the tender process. It is pointed out that the aforesaid two tenderers were not parties in CWJC No.11185 of 2013. According to him, in the aforesaid circumstances, it is not possible for the State of Bihar and its functionaries to enter into a negotiation with all the three tenderers, whose financial bids were opened and rates quoted were found to be equal. It is further pointed out that, if a liberty is not granted to the review-petitioners to negotiate with the surviving bidder i.e. the writ petitioner-opposite party herein, then the aforesaid order dated 26.11.2013 cannot be executed/implemented.

Learned counsel appearing on behalf of the opposite party submits that he has already quoted rate 15% below than bill

of quantity. Therefore, according to him, the rate cannot be further reduced.

After having heard the parties, this Court is of the opinion that the order dated 26.11.2013 passed in CWJC No.11185 of 2013 is not required to be reviewed/recalled. However, it is clarified that, if the other two bidders, who had earlier participated and their financial bids were opened and rates quoted were found to be equal, have gone out of the tender process and they are not prepared to take the contract in question, then the State authorities shall be at liberty to proceed further in terms of the order dated 26.11.2013 passed in CWJC No.11185 of 2013 by making negotiation with the writ-petitioner-opposite party herein and the same shall be taken to its logical conclusion or alternatively shall proceed further under the liberty granted by the said order dated 26.11.2013.

The present civil review application stands finally disposed of with the observations/clarifications/directions made above.

(Birendra Prasad Verma, J)

Arvind/-

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