

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22491 of 2014

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M/s J.M.S. Construction through Srikant Siri, one of partner, Son of late Ramlakha Singh, resident of Sri Krishna Nagar, Panchoo, P.O. and P.S.-Hisua, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Health, Bihar, Patna.
2. The Principal Secretary, Department of Health, Bihar, Patna.
3. The Executive Director, State Health Society, Bihar, Patna.
4. The District Health Society through its Secretary, Nawada.
5. The Civil Surgeon cum Member Secretary, District Health Society, Nawada.
6. The District Magistrate, Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Prakash, Advocate.

For the Respondent/s : Mr. Kishore Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 12-01-2015 Heard learned counsel for the parties as with regard to the following reliefs prayed in this writ application:-

"For quashing the NIT dated 09.12.2014 issued by the District Health Society, Nawada to the extent it relates to providing generator facilities at the various hospitals including the Primary Health Centres, Referral Hospital etc. within the District of Nawada and for further direction to the respondents to extend the contract of the petitioner since it has provided unblemished services at the places where he was asked to provide in consonance with the agreement as well as letter issued

by the District Collector."

Considering the aforesaid and submission of the parties this Court on 08.01.2015 had passed an interim order which reads as follows:-

"Heard learned counsel for the parties.

Having regard to the fact that opening of the offer in terms of the Notice Inviting Tender dated 09.12.2014 is going to be held at 3:00 P.M. today (8th January 2015), this Court would give liberty to the petitioner to participate in the said Notice Inviting Tender by submitting its tender documents without prejudice to its rights being agitated in this writ application.

Put up this case on Monday at 2:15 P.M. when Mr. Kishore Kumar Sinha, learned counsel of the respondents shall inform this Court as to the number of offers received and the price quoted by them.

Mr. Sinha shall also obtain oral instruction as with regard to receipt of offer/request made by the petitioner to the Civil Surgeon of Nawada district on 29.03.2014 seeking extension of the existing agreement in terms of Clause 9 of the earlier agreement between the petitioner and the State Health Society. Additionally, Mr. Sinha will also inform this Court by Monday as with regard to the claim of the petitioner that its services, during the subsistence period of the agreement and even in the extended period, have remained satisfactory.

Till the final disposal of this writ application, the Collector, Nawada, being the Chairman of the State Health Society, is hereby restrained from taking any final decision on the offer of the tenderers received and opened today."

Pursuant to the aforesaid order of this Court dated 08.01.2015, both Mr. Amit Prakash learned counsel for the petitioner and Mr. Kishore Kumar Sinha learned counsel for the State Health Society, having obtained instruction from the concerned respondents, have submitted that the impugned tender notice, in question, has already been cancelled and, therefore, the apprehension of the petitioner has withered away.

Mr. Amit Prakash, learned counsel for the petitioner, under the changed circumstances, submits that since the petitioner had a right of renewal of the contract and the petitioner had, as a matter of fact, also sought said renewal of contract, the offer of the petitioner for renewal may be allowed as per the stipulated terms and conditions in the earlier agreement.

Learned counsel for the respondents has got no objection in considering the case of the petitioner for renewal of contract.

That being so, this writ application, under the changed circumstances, is disposed of with a direction to the respondents to

consider the possibility of renewal of contract of the petitioner and
in the event, such renewal is not granted to the petitioner, the
respondents may go ahead with the fresh tender programme.

Sujit/-

(Mihir Kumar Jha, J)

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