

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12411 of 2015

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Thumar Piyushkumar Babubhai (CMD of Bright Solar Pvt. Ltd. Ahmedabad), son of Babubhai resident of Plot No. 474 Road No. 12 Kathwada G.I.D.C. odhar Ahmedabad Gujrat

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Public Health Engineering Department Patna.
2. The Principal Secretary Public Health Engineering Department Govt. of Bihar Vishweshwraiya Bhawan Campus Patna.
3. The Engineer-in-chief-cum special Secretary Public Health Engineering Department Vishweshwraiya Bhawan Campus, Patna.
4. The Joint Secretary-cum-Internal Financial Advisor P.H.E.D. Govt. of Bihar Vishweshwraiya Bhawan Campus, Patna.
5. The Regional Chief Engineer P.H.E.D. Patna District- Patna
6. The Regional Chief Engineer P.H.E.D. Muzaffarpur, District- Muzaffarpur.
7. The Regional Chief Engineer P.H.E.D. Bhagalpur District- Bhagalpur.
8. The Chief Engineer (Urban) P.H.E.D. Govt. of Bihar Patna.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Shankar Kumar, Advocate

For the Respondent/s : Mr. Vinay Kirti Singh, GA-03

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 13-10-2015 Heard Mr. Shankar Kumar, learned counsel appearing for the petitioner and Mr. Vinay Kumar Pandey, Assisting Counsel to G.A.-3 for the State.

The writ petition was filed seeking *inter alia* a direction to the respondent authorities of the Public Health and Engineering Department, Government of Bihar including the Principal Secretary to pass final orders on the auction held pursuant to the notice inviting tender bearing No. 44 / 2014-15 issued in respect of installation of solar energy based water supply schemes with



pumping arrangements in 11 districts of the State mentioned in Annexure-1. The petitioner was one of the tenderers along with some others. According to the petitioner although he was found suitable in the technical bid and the financial bid by the tender committee present at Annexure-2, it is carrying a grievance that despite this position no work order has been issued to the petitioner that the writ petition was filed seeking appropriate directions in this regard.

A counter affidavit has been filed and the facts are not dispute. In fact it is also not disputed that the petitioner was found to be successful of the tenderers and even the rate so offered by the petitioner was found 6.42 per cent above the reserve jama at Rs. 2406.203 lacs. However despite this position the tender committee held its meeting on 23.6.2015 and has rejected the tender of the petitioner on grounds that the papers were not up to the mark. The decision of the tender committee headed by the Principal Secretary does not discuss the nature of the default. The order of the tender committee while proceeding to reject the tender of the petitioner which has been found to be complete in all respects and above the reserve jama could not have been rejected in a sweeping manner where the petitioner is not even aware of the default in the papers. The very fact that the financial bid of the petitioner was opened certifies his eligibility to participate in the

tender process. The decision of the tender committee further reflects that the petitioner is not blacklisted and although some complaints were received against the petitioner but they have not been found to be true. At least it does not reflect from the order. In fact the operative portion of the decision which rejects the candidature of the petitioner does not even discuss the source of information for the foundation that the papers were not found in order. Arbitrariness is writ large in the decision of the tender committee and since there is no other disqualification mentioned in the order of the tender committee which disentitles the petitioner to the work order, this Court while setting aside the decision of the tender committee insofar as it rejects the candidature of the petitioner on grounds of infirmity in the documents submitted by him would direct the tender committee headed by the Principal Secretary for issuance of the work order in favour of the petitioner considering that there is no other contestant to the auction.

The writ petition is allowed.

(Jyoti Saran, J)

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