

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8857 of 2016

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M/s. Sarthak Enterprises, a partnership firm registered under the provisions of the Indian Partnership Act having its registered office at Sareya, Ward No.13, Gopalganj, Bihar through one of his Partner namely Sri Kumar Vansh Giri son of Late Deodhari Giri

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Bihar, Patna.
2. The Chief Engineer, Rural Works Department, Gopalganj-2, Gopalganj.
3. The Executive Engineer, Rural Works Department, Gopalganj-2, Gopalganj.
4. The Superintending Engineer, Rural Works Department, Gopalganj-2, Gopalganj.

.... Respondents

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with

Civil Writ Jurisdiction Case No.8867 of 2016

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M/s. Sarthak Enterprises, a partnership firm registered under the Provisions of the Indian Partnership Act having its registered office at Sareya Ward No. 13, Gopalganj, Bihar, through one of its Partner namely Sri Kumar Vansh Giri son of Late Deodhari Giri.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Bihar, Patna.
2. The Chief Engineer, Rural Works Department, Works Division, Hathua Gopalganj.
3. The Executive Engineer, Rural Works Department, Works Division, Hathua, Gopalganj.
4. The Superintending Engineer, Rural Works Department, Works Division, Hathua, Gopalganj.

.... Respondents

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Appearance :

(In CWJC No. 8857 of 2016)

For the Petitioner/s : Mr. Ashish Giri, Advocate
For the State : Mr. Ajay Kumar Rastogi, AAG-10 with
Mr. Naman Nayak, AC to AAG-10

(In CWJC No. 8867 of 2016)

For the petitioner : Mr. Ashish Giri, Advocate
For the State : Mr. Lalan Kumar, AC to G.P. 9

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL ORDER

5 12-08-2016 Heard learned counsel for the petitioner and learned counsel for the State.

In both the writ applications the dispute relates to whether a single tenderer after a technical bid can be refused the contract. The facts of the matter are that NIT dated 22.2.2016 and 15.2.2016 respectively for construction of road was issued by the Rural Works Department, Gopalganj. The petitioner had filed tenders for the third item in the first case and for the last item of the NIT in the second case and after the technical bid the petitioner was found to be the sole tenderer. On the said ground the tenders of the petitioner were rejected and in the second case a fresh NIT was also issued on 10.5.2016 in which, however, there was an interim order dated 1.7.2016 not to create third party rights.

Learned counsel for the petitioner submits that the cases of the petitioner are squarely covered by the decision of this Court in the case of M/s. R.R.Company vs. The State of Bihar & Ors. in CWJC No. 8869 of 2016 and its analogous cases, decided on 21.7.2016, wherein in identical situation in the analogous case of M/s. Sona Engicon Pvt. Ltd. being CWJC No. 4907 of 2016 this Court had held that no circular has been brought to the notice of this Court that on the ground of single tenderer financial bid was not to be opened, rather a large number of cases had been cited by the petitioner in which single tenderers had been awarded contracts and there being no circular to the contrary in such matters on the date the tender was floated. Hence the petitioner could not be deprived of the contract on the said ground.

Learned Additional Advocate General No.10 appearing for the State admits that the present cases are covered by the

aforesaid decision in M/s. R.R.Company's case (supra). It is, however, pointed out that the petitioner in both the cases has filed the tenders at the scheduled rates as in the case of M/s. Sona Engicon Pvt. Ltd. in CWJC No. 4907 of 2016, which had also been disposed of by the common order dated 21.7.2017. In the present matters also learned counsel for the petitioner submits that the petitioner is opened to negotiation of the rates.

Thus, the present writ applications are also allowed in the light of the decision in the case of M/s. R.R.Company's case (supra), subject to the statement made at the Bar on behalf of the petitioner with regard to the negotiation.

Let the cases of the petitioner with regard to financial bids be also considered and disposed of within two weeks from the date of receipt/production of a copy of this order.

(Ramesh Kumar Datta, J)

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