

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1947 of 2015

IN

Civil Writ Jurisdiction Case No. 5029 of 2015

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M/s Amazing India Contractors Pvt. Ltd. a registered company having its registered office at Bhagalpur through its Managing Director namely Syed Aley Hassan Faridi Son of Md. Kutubuddin Resident of Mohalla- Chamelichak, P.S.- Habibpur, District- Bhagalpur.

.... Appellant

Versus

1. The Airport Authority of India through the Chairman, Rajiv Gandhi Bhawan, Safadarjang Airport New Delhi.
2. The Chairman, the Airport Authority of India, Rajiv Gandhi Bhawan, Safadarjang Airport, New Delhi.
3. The Executive Director, the Airport Authority of India, Rajiv Gandhi Bhawan, Safadarjang Airport, New Delhi.
4. The Regional Director, Eastern Region, Airport Authority of India, Kolkata.
5. Jai Prakash Narayan International Airport, Patna through the Airport Director, Airport Authority of India, Patna.
6. The Airport Director, Jai Prakash Narayan International Airport, Patna Airport Authority of India, Patna.
7. The Tender Committee through its Member, Jai Prakash Narayan International Airport, Airport Authority of India, Patna.
8. The Member, Tender Committee, Jai Prakash Narayan International Airport, Airport Authority of India, Patna.
9. The Manager [Commercial], Jai Prakash Narayan International Airport, Airport Authority of India, Patna.
10. Ranjeet Kumar, Son of Sri Ram Singhasan Singh, resident of Mohalla- Chandmari Road, Lane no.2, Police Station- Kankarbagh, District-Patna

.... Respondents

with

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Letters Patent Appeal No. 301 of 2016

IN

Civil Writ Jurisdiction Case No. 5029 of 2015

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1. The Airport Authority of India through the Chairman, Rajiv Gandhi Bhawan, Safdarganj Airport, New Delhi.
 2. The Chairman, the Airport Authority of India, through the Chairman, Rajiv Gandhi Bhawan, Safdarganj Airport, New Delhi.
 3. The Executive Director, the Airport Authority of India through the Chairman, Rajiv Gandhi Bhawan, Safdarganj Airport, New Delhi.
 4. The Regional Director, Eastern Region, Airport Authority of India, Kolkata.
 5. Jai Prakash Narayan International Airport, Patna through the Airport Director, Airport Authority of India, Patna.
 6. The Airport Director, Jai Prakash Narayan International Airport, Airport Authority of India, Patna.
 7. The Tender Committee through its Member, Jai Prakash Narayan International Airport, Airport Authority of India, Patna.
 8. The Member, the Tender Committee, Jai Prakash Narayan International Airport,

Airport Authority of India, Patna.

9. The Manager Commercial, Jai Prakash Narayan International Airport, Airport Authority of India, Patna. Appellants

Versus

1. Ranjeet Kumar son of Sri Ram Singhasan Singh resident of Mohalla - Chandmari Road, Lane No. - 02, Police Station - Kankarbagh, District - Patna.
2. Amazing India Contractors Private through its Director/Partner/Proprietor, Chameli Chak, Bhagalpur - 813113. Respondents

Appearance :

(In LPA No. 1947 of 2015)

For the Appellant : Mr. Shailesh Kumar, Advocate

For the Respondents : Dr. Pankaj, Advocate

(In LPA No. 301 of 2016)

For the Appellants : Dr. Pankaj, Advocate

For the Respondents : Mr. Sanjeev Kumar, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH)

Date: 19-07-2016

These appeals are preferred against order, dated 09.09.2015, passed by learned single Judge, in C.W.J.C. No.5029 of 2015, by which the entire procedure along with consequential award of contract to Amazing India Contractors Private Ltd. has been held to be erroneous and set aside and the writ petitioner, Ranjeet Kumar has been declared the highest bidder for award of contract of Car parking area at Jai Prakash Narayan International Airport, Patna (hereinafter referred to as 'the JPNE Airport').

2. The facts of the case, in short, are as follows:

(i) The writ petitioner, Ranjeet Kumar, was granted license for car parking area at the JPNE Airport from 15.10.2014, which



was extended up to 15.04.2015, or till award of a fresh contract, whichever would be earlier. In the meantime, e-notice inviting tender was issued, on 13.02.2015, for award of contract for car parking area at the JPNE Airport. It appears that the first tender was floated by Airport Authority of India (hereinafter referred to as 'the Authority') on 13.11.2014, wherein due date of opening of technical bid was 02.12.2014, which was extended to 09.12.2014. However, the first tender was cancelled and another tender was floated on 13.01.2015, which, too, was cancelled, as only one bidder qualified in tender bid. The third tender was floated on 13.02.2015, wherein the last date for submission of tender and opening of technical bid on e-tender portal was 27.02.2015, whereas the date for opening of financial bid was stated to be intimated separately later on.

(ii) The appellant, along with writ petitioner and others, submitted tender documents. Out of four bidders, three qualified in the tender bid including the appellant and writ petitioner.

(iii) According to the writ petitioner, the bid was not opened on 27.02.2015; rather, the same was opened on 16.03.2015 at 3.15 PM. On the same date, the petitioner received message through e-mail, at 3.52 PM, vide e-tender portal of the Authority, sent on e-mail address of the writ petitioner, whereby



he came to learn that financial bid for subject mentioned contract would be opened on 26.03.2015 at 16.30 hours. According to the petitioner, he was awaiting opening of the financial bid to be held on 26.03.2015 in terms of communication through e-mail, dated 16.03.2005. However, on enquiry, he was informed by the Authority that the financial bid was opened on 16.03.2015 itself and the appellant turned to be only the highest bidder for favour of award of licence for Car parking area at the JPNI Airport.

(iv) Being aggrieved, the writ petitioner moved the Court in writ jurisdiction. The learned single Judge allowed the writ application observing that there was lack of transparency in the tender process with liberty to respondent Nos. 1 to 9 to come up with a fresh notice inviting tender for grant of the contract, which would not mean that the licence of the petitioner, which was valid either till finalization of new tender or April, 2015, would continue. The Airport Authority nevertheless was also granted liberty to make temporary arrangements, in accordance with law, till the finalization of fresh contract.

3. The case of the Authority is that the award of contract was carried out, *on line*, and, as such, there was no requirement of personal presence of the tenderers. Furthermore, as the *e-mail* message was electronically generated, no prejudice has been caused



to the petitioner, even though he could not remain present at the time of opening of financial bid. The further case of the Authority is that the *e-mail* was sent to all the bidders, on 16.3.2015, stating that financial bid for subject mentioned contract will be opened, on 26.3.2015, at 16.30 hours, through the *e-mail* I.D. of Manager Commercial, which was a human error or typing mistake, and was soon rectified and all the bidders were immediately informed on their respective telephone numbers, including the petitioner, of the said mistake. However, the writ petitioner has denied to have received the subsequent information to the effect that the *mail* generated on 16.03.2015 was an error.

4. The appellants submit that the writ petitioner was caused no prejudice, as he was lowest of the three bidders, who had qualified in the technical bid. To be specific, as against an amount of Rs.8,11,211/- quoted by the appellant, and Rs.6,75,001/- was quoted by M/s Kumar Gauri Shankar, the writ petitioner quoted Rs.6,61,500/-. On consideration of materials on record and claim of the parties, we do not find any serious infirmity with the tender process so as to call for any interference with the tender process. The writ petitioner does not allege any manipulation. He also does not deny that two other qualified bidders, namely, the appellant and M/s Kumar Gauri Shankar, had

quoted higher bid amount than him for award of license of Car parking area. Furthermore, no prejudice has been caused to the writ petitioner, even though he was not present at the time of opening of the financial bid, as it was electronically generated. The appellant, being highest bidder, was entitled to the award of the contract for the Car parking area. It is true that there has been some misinformation about the date of the opening of financial bid and the same, in absence of prejudice or allegation of bias or manipulation, would not vitiate the tender process.

5. In the result, the appeal succeeds. The impugned order passed by the learned single judge is set aside. Respondents would be at liberty to proceed with the tender process.

(Samarendra Pratap Singh, J)

I. A. Ansari, ACJ:- I agree.

(I. A. Ansari, ACJ)

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