

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.402 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 19627 of 2015

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1. Pappu Singh Son of Sri Krishna Bihari Singh Resident of village - Nichali Kila,
Garhpar, P.O. Biharsharif, P.S. Bihar, District - Nalanda at Biharsharif.

.... Appellant

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Rural Work Department, Government of Bihar, Patna.
3. The Engineer in Chief cum Additional Secretary cum Special Secretary, Rural
Works Department, Government of Bihar, Patna.
4. The Chief Engineer - I, Rural Work Department, Patna.
5. The Superintending Engineer, Rural Work Department, Work Circle, Nalanda.
6. The Executive Engineer, Rural Work Department, Work Division, Biharsharif,
District - Nalanda.
7. Sri Ravi Shastri Son of not known to the petitioner Resident of Village + P.O. +
P.S. - Harnaut, District - Nalanda at Biharsharif.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Amit Shrivastava, Advocate
Mr. Sanjay Kumar @ Manu, Advocate
For the Respondent/s : Mr. Arvind Ujjwal, S.C.
Mr. Ritesh Kumar, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 05-12-2016

Heard learned counsel for the parties.

The challenge in the present Letters Patent Appeal is to
an order dated 11th of February, 2016 passed by learned Single Bench
of this Court in C.W.J.C.No. 19627 of 2015 wherein the writ
application challenging the decision of Technical Bid Evaluation
Committee rejecting the bid of the appellant was dismissed. The



decision was that the appellant has not deposited the earnest money in terms of the condition of notice inviting tender.

An advertisement was issued by the Rural Works Department, Government of Bihar for maintenance of road in Rahui Block in the district of Biharsharif. Clause 16.1 of the Standard Bidding Document of the tender was that the earnest money has to be for a period of 1 year/2 year/3 year as a term deposit (Fixed Deposit) but the appellant enclosed a post office term deposit of 5 years. Therefore, Technical Bid Evaluation Committee rejected the technical bid for the reason that the earnest money is not in terms of notice of the conditions of the tender. The notice inviting for maintenance of road which was advertised is almost a year back.

The learned Single Bench dismissed the writ application on the ground that once the appellant fails to comply with the condition of the notice inviting tender, then the appellant cannot claim any indulgence in a writ jurisdiction.

The only argument raised by the learned counsel before this Court is that the concerned Executive Engineer forwarded the post office term deposit furnished by the appellant for pledging to the department, therefore, the respondent having accepted the post office term deposit cannot turn around to reject the bid of the appellant for the reason that it does not qualify the technical bid.



We have heard learned counsel for the parties and found that the Standard Bidding Document contemplates that the earnest money had to be by way of term deposit for a period of 1year/2 year/3 year. The appellant submitted post office term deposit for five years, but it does not satisfy the requirement of tender conditions. The action of pledging by an officer will not create any right in favour of the appellant as the express condition of the tender cannot be waived an individual officer.

In view of the above, we do not find any error in the order passed by the learned Single Bench which may warrant interference in this Letters Patent Appeal. The same is accordingly, dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

A.I./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.12.2016
Transmission Date	

