

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16617 of 2016

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Kumar Ravi Shankar, son of Sri Kamleshwar Rai, resident of village - Singha, Tola - Tarwan, P.O. Hathua, P.S. Mirganj, District - Gopalganj

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Rural Works 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 Superintending Engineer, Rural Works Department, Work Circle, Siwan
5. The Executive Engineer, Rural Works Department, Work Division, Siwan - 2

.... Respondents

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Appearance :

For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate
For the State : Mr. Ashish Kumar Lal, AC to G.A.5

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 06-10-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 25.5.2016 of the Technical Tender Committee issued under the signature of the Superintending Engineer, Rural Works Department, Work Circle, Siwan by which although the petitioner was declared qualified in the technical bid for construction of L033 to Bardha Road as also for construction of T02 Guthani Darauli Road to Khirauli, it was decided to notify a fresh tender. In the NIT, although the date of issue is not given in the annexure, but the last date for submission of bids was 7.2.2016 and the bid was to be opened on 1.3.2016 and the petitioner had accordingly bid for two items being serial numbers 13 and 15 of the said NIT, in which he emerged as the sole qualified tenderer after the technical bid stage and thereafter by the impugned decision dated 25.5.2016 the tender was cancelled and it was decided to invite fresh tender. As a matter of fact, fresh tender has also been published on 5.8.2016 in the newspapers which has been annexed as Annexure-4 to the

writ application.

Learned counsel for the petitioner submits that it was not open to the respondents to have relied upon the Road Construction Department's policy decision dated 9.5.2016 for rejection of the tenders of the petitioner in view of the law laid down by this Court by order dated 21.7.2016 in CWJC No. 8869 of 2016 (M/s. R.R.Company vs. The State of Bihar & Ors.) and its two analogous cases wherein it was held that the tender has to be considered on the basis of the rules in existence at the time the notice inviting tender was issued and the policy decision dated 9.5.2016 would not be applicable to such prior NIT.

It is also submitted that in both the items the petitioner has tendered at less than the schedule rate and further is prepared to negotiate in the matter.

Learned counsel for the State is unable to show how the decision in M/s. R.R.Company's case (supra) does not apply to the present matter.

In the above circumstances, the writ application is allowed and the respondents are directed to open the financial bids of the petitioner within one week from the date of receipt/production of a copy of this order and thereafter proceed to award the contract subject to the statements made by the petitioner with regard to the financial bid and the willingness to negotiate.

(Ramesh Kumar Datta, J)

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