

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2304 of 2016

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1. Baijnath Nirman India Pvt. Ltd., through Managing Director - Niranjan Keshav, having its registered office at Mohalla - East Gandhi Maidan, Jehanabad, P.O., P.S. & District - Jehanabad.
 2. Niranjan Keshav S/o Baijnath Prasad Sharma, resident of Mohalla - East Gandhi Maidan, Jehanabad, P.O., P.S. & District - Jehanabad, Managing Director of Baijnath Nirman India Pvt. Ltd.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna, 5th Floor, Vishveshwarya Bhawan, Bailey Road, Patna – 800015.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna, 5th Floor, Vishveshwarya Bhawan, Bailey Road, Patna – 800015.
3. The Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna, 5th Floor, Vishveshwarya Bhawan, Bailey Road, Patna – 800015.
4. The Chief Engineer - 1, Rural Works Department, Government of Bihar, Patna, 5th Floor, Vishveshwarya Bhawan, Bailey Road, Patna – 800015.
5. The Superintending Engineer, Patna Circle, Rural Works Department, Government of Bihar, Patna, Barrack near Haj Bhawan, Patna.
6. The Executive Engineer, Rural Works Department, Works Division, Barh, Government of Bihar, Patna.
7. The Nodal Officer, 4515 NABARD, Rural Works Department, Government of Bihar, Patna, 5th Floor, Vishveshwarya Bhawan, Bailey Road, Patna – 800015.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binod Kumar Singh & Ms. Vagisha Pragya Vacaknavi, Advocates.
For the State	:	Mr. R. K. Priyadarshi, S.C. 32. Mr. Kundan Kumar, A.C. to S.C. 32.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 17-02-2016

Heard learned counsel for the parties.

Learned counsel for the petitioners is permitted to make necessary correction with regard to the number of N.I.T mentioned in various paragraphs of the writ application. Let the same be done during the course of the day.

The petitioners have moved the Court being

aggrieved by rejection of their technical bid on 31.12.2015 for the work pursuant to tender notice dated 20.11.2015 bearing Notice No. RWD/NABARD/08/E-TENDER/2015-16 by which their technical bid has been rejected on the ground that they had not submitted the experience certificate of having completed 25% of similar work.

Learned counsel for the petitioners submits that the certificate submitted by them clearly indicates that they had performed the job of construction of a bridge which was required to be built pursuant to the tender in question and upon rejection of his technical bid, he had also filed a representation before the Principal Secretary of the Department and without waiting for the same, fresh tender were issued. He also refers to various annexures which are copies of nature of work which he had executed in the past and submits that they clearly indicate that the petitioners had the requisite experience for being eligible for their financial bid to be opened with regard to the tender in question.

Learned counsel for the State relying upon para 22 of his counter affidavit submits that the petitioners may be permitted to take part in the fresh N.I.T. with liberty that they may submit all the details relating to thier experience to show that they fulfill the eligibility criteria regarding work experience and the same may be considered by the authorities concerned in accordance with law.

At this juncture, it would be relevant to indicate that the matter was earlier heard on 08.02.2016 and also 15.02.2016 when the Court had permitted the respondents to move ahead with process of tender but the same was directed not to be finalized. Thus, the Court deems it appropriate to give one opportunity to the petitioners to participate in the N.I.T. published in Hindustan Hindi Daily Newspaper, Jehanabad edition on 30.01.2016 being Notice No. RWD/NABARD/10/E-TENDER/2015-16.

Having considered the aforesaid position, the Court is inclined to dispose off the writ petition with a direction that the petitioners shall be allowed to fill up the tender form latest by 22nd February, 2016. They may enclose all relevant and supporting documents to clarify the position that they fulfill the required experience criteria for being allotted the work. The authority shall then consider their technical bid on merits in accordance with law and thereafter the process of settlement of tender shall be taken to its logical conclusion in accordance with law. For the said purpose, let the petitioner no. 2 appear before respondent no. 6 on 19th February, 2016 along with a copy of this order who shall ensure that the order is complied with.

(Ahsanuddin Amanullah, J.)

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