

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3332 of 2015

=====

Balaje Deo Construction Pvt. Ltd. (114441) through its Managing Director,
Ashutosh Kumar, Son of Shri Badari Narayan Singh, resident of Ghurdaur Road,
near B.K. Institute of Technology, Digha, Patna- 11.

.... Petitioner/s

Versus

1. Principal Secretary, R.W.D. Bihar
2. The State of Bihar through Engineer-in-Chief-cum-Additional Commissioner-
cum-Special Secretary, Rural Works Department, Bihar, Patna.
3. Chief Engineer- 3, Rural Works Department, Patna.
4. Superintending Engineer, Rural Works Department, Circle Siwan.
5. Executive Engineer, Rural Works Department Division Hathwa, District-
Gopalganj.
6. Messers Saheb Singh Construction Pvt. Ltd. (109125)

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Ms. Usha Rani, Advocate.
For the State : Mr. Prabhat Kumar Singh, SC 12
Mr. Pramod Kumar Singh, Advocate.
For the Respondent/s : Mr. Suresh Prasad Singh No. 1, Advocate
Ms. Kumari Rashmi, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 14-03-2016

Heard learned counsel for the parties.

The writ petition has been filed for quashing the order
contained in Memo No. 833 dated 16.02.2015 by which the technical
bid of the petitioner has been rejected on account of lack of minimum
work experience.

Learned counsel for the petitioner submits that though he
has performed the work, which is equivalent to 10% of the work
which was required to be done under the tender in question, but still
the authorities have wrongly rejected his technical bid. It is submitted



that the petitioner is registered with the Public Health and Engineering Department (PHED) of the State of Bihar and he is a small contractor, but has executed the work successfully under the PHED and thus, rejection is arbitrary and further if the rights of the petitioner is not considered, he will never be able to do work as there is always a first attempt to enter into any profession or do a particular work.

Learned counsel for the State submits that as per the requirement of the SBD/NIT, the tenderer had to have an experience of executing one similar work having a value of at least 10% of the estimated value of the tender. It is thus submitted that the petitioner ought to have submitted an experience certificate with regard to showing him having performed the job without disclosing the amount and secondly, for the work of which the amount was disclosed, all relate to the sinking of hand pumps, which in no way can be considered to be a work of similar nature to construction of road.

Learned counsel for the petitioner submits that the terms are loaded against new entrants and thus is an unfair practice.

Having considered the facts and circumstances of the case and the submissions of learned counsel for the parties, the Court is in agreement with the submissions of the learned counsel for the respondents. Once, there are conditions fixed in the SBD/NIT, there cannot be any departure or deviation while considering either the

technical or financial bid of the parties. In the present case, the Court finds that the requirement of having completed similar work for a value of minimum 10% of the estimated tender value, has not been properly demonstrated by the petitioner either before the authorities concerned at the time of submitting the bid or even before this Court. Thus, the Court does not find any error or ground to interfere in the impugned order rejecting the technical bid of the petitioner. The writ petition stands dismissed.

Any interim order passed stands automatically vacated.

(Ahsanuddin Amanullah, J)

Sujit/-

U			
---	--	--	--