

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15435 of 2015

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M/s Puja Enterprises, a Proprietary concern having its place of business at New Dillian, G.T. Road, Dehri-on-Sone, Rohtas, through its Proprietor Sunil Kumar, son of Late Deep Chand Prasad, Resident of Behind Dental Clinic, Canal Road, Dehri-on-sone, P.S.- Dehri-on-Sone, District- Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna
2. The Superintending Engineer, National Highway Division, Aurangabad
3. The Executive Engineer, National Highway Division, Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal

For the Respondent/s : Mr. Ramadhar Singh- GP-25

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

5 29-09-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 02.09.2015 passed by the Executive Engineer, National Highway Division, Aurangabad by which the tender for old S.P. Bridge has been cancelled.

The petitioner, pursuant to a notice on the notice board in the office of the Executive Engineer with regard to sale of the old materials of SP bridge which was in dilapidated condition, participated in the tender process of NIT dated 28.08.2015 for which reserve price was Rs.13,22,277/- and

having made the highest offer price of Rs.17,00,000/- has already been selected.

It is submitted by the learned counsel for the petitioner that the sale not having been completed by the respondent authorities after the opening of the financial bid and the petitioner being the highest bidder, the present writ application was filed and thereafter the impugned order dated 2.9.2015 was issued cancelling the aforesaid sale which has been challenged by filing I.A. No. 8092/2015.

In the counter affidavit filed on behalf of the respondent nos. 2 and 3, it is stated that the sale of the abandoned bridge materials was cancelled for the reason that the notice inviting tender was to be published in the local newspaper and the necessary papers were sent for the purpose by the Executive Engineer, Road Construction Department, on 19.08.2015. However, due to some inadvertent error in the documents the advertisement was not published in the local newspaper. It is further stated that the petitioner learnt about the tender notice and has accordingly applied but since the advertisement was not published in the local newspaper therefore it has been cancelled.

Learned counsel for the petitioner in support

of his stand relies upon a resolution dated 24.06.2015 issued by the Road Construction Department as also the office order no.10/2/14 dated 11.02.2004 issued by the Government of India, Central Vigilance Commission under which there is no requirement for publishing a tender notice with regard to works for which the estimated cost does not exceed rupees fifteen lacs.

The said resolution has no relevance in the present matter as it is not a case of any work rather it was a sale of an abandoned bridge materials for which the reserve price was Rs.13,00,000/- but ultimately it was found to be a sale of more than Rs.17,00000/-. Moreover, the reason assigned does not appear to be arbitrary as there was a failure to publish the advertisement in the newspaper on account of certain internal lapses inter-se between government departments. That having been detected and if the respondents have chosen to cancel the sale, it does not call for any interference with the same.

Thus, in the above circumstances, this Court does not find any merit in the writ application. It is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

B.Kr./-

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