

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15235 of 2016

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Irshad Khan, son of Haji Mohammad Ali Khan, Resident of Village+Post
Office- Tadawa, Police Station- Siwan Muffasil District- Siwan.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Urban and Housing Development Department, Government of Bihar, Patna.
2. The Superintending Engineer, Urban Development Agency, Urban and Housing Development Department, Government of Bihar, Patna.
3. The Executive Engineer, Siwan, Urban Development Agency, Urban and Housing Development Department, Siwan.

.... Respondents

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with

Civil Writ Jurisdiction Case No.14682 of 2016

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Brajesh Kumar, son of Dinanath Bhakta, Resident of Village- Dhanauti
Tola, Post Office- Dhanauti Police-Station-Siwan Muffasil (Dhanauti O.P.)
District-Siwan

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Urban and Housing Development Department, Government of Bihar, Patna
2. The Superintending Engineer, Bihar Urban Development Agency, Urban and Housing Development Department, Government of Bihar, Patna
3. The Executive Engineer, Siwan, Urban Development Agency, Urban and Housing Development Department Siwan

.... Respondents

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Appearance :

(In CWJC No.15235 of 2016)

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
For the Respondent/s : Mr. Kinkar Kumar, S.C. 9 with
Mr. Yogesh Kumar, AC to S.C. 9

(In CWJC No.14682 of 2016)

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
For the Respondent/s : Mr. Subhash Prasad Singh, G.A. 3

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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 in both the cases.

The petitioners seek quashing of the order dated



14.6.2016 issued by the Superintending Engineer, Urban Development Agency, Urban and Housing Development Department, Government of Bihar by which the tenders of group No.2 and group No.1 of NIT No. 03 of 2015-16 have been cancelled and for consequential direction.

The aforesaid NIT was issued for construction of Road, P.C.C. Road and bridge upon sewage canal from PWD road in front of Circuit House, Siwan through the Gramin Bank, Rajvanshi Nagar to Khurmabad Saitola, Siwan on the Government road.

Admittedly the NIT was issued on 25.2.2016 and the technical bid was opened on 29.3.2016, whereafter the petitioner of each case remained as the sole bidder. The matter was kept pending by the respondents and ultimately the impugned order dated 14.6.2016 was issued cancelling the tender in the light of the Notification of the Road Construction Department dated 9.5.2016.

Learned counsel for the petitioner states that the present matters are covered by the decision of this Court dated 21.7.2016 passed 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 tender process shall be governed by the rules in existence on the date the notice inviting tenders had been issued and no changes thereafter are possible barring exceptional circumstances and that too with the consent of all the tenderers and accordingly the said writ petition along with its two analogous cases was allowed.

Learned counsel for the State is unable to show how the present matters are not covered by the aforesaid decision in M/s. R.R.Company's case (supra).

It is further pointed out by learned counsel for the petitioner in CWJC No. 15235 of 2016 that although financial bid has not been opened but the petitioner has bid at 10% below the schedule rate. Learned counsel for the petitioner in CWJC No.14682 of 2016 submits that the petitioner has bid 1.5% below the schedule rate but is prepared to negotiate.

In the aforesaid circumstances, both the writ applications are allowed and the respondents are directed to open the financial bids of the petitioners within a period of one week from the date of receipt/production of a copy of this order and thereafter proceed to award contracts subject to the statements made by the petitioners with regard to their financial bids and willingness to negotiate.

(Ramesh Kumar Datta, J)

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