

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16523 of 2016

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Manoj Kumar Jha, son of Late Shripati Jha, Village-Morawadih, P.O.-Morwa, P.S.-
Musarigharari, District- Samastipur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna.
2. The Bihar State Food and Civil Supply Corporation Ltd. through the Managing Director, Daroga Prasad Rai Patha, R-Block, Road No.2, Patna-800001
3. The Deputy Chief Transport, Headquarters, Bihar State Food and Civil Supply Corporation Ltd., Patna.
4. The District Transport Committee through the Collector, Samastipur.
5. The Collector-cum-Chairman of the District Transport Committee, Samastipur.
6. The District Manager, State Food Corporation, Samastipur.

.... Respondents

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Appearance:

For the Petitioner : Mr. Amaresh Kumar Sinha, Adv.
For the State : Mr. Arbind Ujjwal, S.C.-4
For the B.S.F.C. : Mr. Shailendra Kumar Singh, Adv.
For the Intervener-Respondent : Mr. Aditya Prakash Sahay, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 30-08-2017

Heard learned counsel appearing for the respective parties.

2. In the present case, the petitioner is challenging the action of the District Transport Committee, Samastipur vide letter no.10224 dated 12.08.2016 whereby and where-under in second part it has been mentioned that those tenderers who had earlier



participated in the tender dated 24.02.2016 submitted the photo copy of agreement on stamp paper having filed the original copy of agreement on the same stamp paper will liable for rejection, is the sole ground for rejecting technical bid of the petitioner.

3. The short facts of this case are that an advertisement was published on 24.02.2016, inviting application from interested persons for appointment of the transporter-cum-handling agent, but some how it could not be materialized. Again a fresh advertisement was published on 23.05.2016, inviting the application from interested persons to participate in the tender. The petitioner and others dropped their sealed cover tenders in two sets, technical as well as financial bid. When the technical bid was opened, it was found that the tender of the petitioner is not in terms of the N.I.T. and rejected the same. The ground for rejection of the tender of the petitioner is that as he has produced the original agreement what he has filed in the tender dated 24.02.2016 documented in the same stamp paper.

4. To appreciate this argument whether it is required in terms of the N.I.T. that in case, if the original agreement document is filed with the same stamp paper, will lead to rejection of tender as it is contrary to the terms of the N.I.T. led to illegal decision



committed by the District Transport Committee, it will be useful to quote Sub-clause-(ix) of Clause-9 of the N.I.T., which reads as under:-

“9(ix)Self-attested photocopy of Owner book of 05 small vehicles like- Pick up Van/407/mini truck/Tractor registered in the name of the bidder or her/his/their family member/s with up to date tax-token and road permits duly certified by the District Transport Officer of the concerned District and also self-attested photocopy of insurance pollution certificates and fitness certificates counter signed by MVI of the district from where vehicle is registered along with original copies of the separate lease / contract agreements on stamp of Rs.1000/- or 30 (thirty) such small vehicles like- Pick up Van / 407/mini truck/Tractor for every vehicle separately total number of tractors cannot be more than 50% of total number of small vehicles like-Pick Up Van / 407/mini truck.”

5. On perusal of aforesaid clause, it appears that it is in two parts; first part dealing with number of vehicles, ratio of ownership vehicle vis-à-vis hired vehicle and ratio of nature of vehicle, second part is dealing with value of stamp paper of agreement is to be filed. The condition reflects, the agreement should be prepared on Rs.1000 stamp paper.

6. In the N.I.T., there is no such condition that if the agreement prepared on proper denomination of stamp paper of the earlier period, will entail rejection of the tender on technical ground,



merely, the requirement is that agreement should be on stamp of Rs.1000/-. If the agreement has been recorded on the proper stamp paper is still operational, it cannot be said that the submission of original agreement will be in any way come deficiency in the tender document. If the Committee wanted such condition, should have mentioned in the N.I.T. itself. When the tender has been floated and such condition has not been mentioned, its terms cannot be changed in the mid-way. Once the game has already started, the rule of game cannot be changed in the mid-way. If the rule does not provide any such condition, it cannot be superimposed in the mid-way of the selection.

7. Learned counsel for the State and Corporation have tried their best to justify the action of the Transport Committee by submitting that the agreement which has been filed does not reflect that the agreement is valid, but this is not the ground for rejection of technical bid of the petitioner, but the ground is only confined that the agreement which has been filed is the stamp paper of earlier period, has been used. Further, the N.I.T. is absent the period stamp will be valid, there should be proper specification of the period in the N.I.T.

8. In my view, the action of the District Transport



Committee, Samastipur, in rejecting the technical bid of the petitioner is completely illegal and not sustainable. Accordingly, this Court directs the District Transport Committee to consider the case of the petitioner treating his tender to be technically valid. However, it is made clear that already five persons have been selected and they have been allotted the work of their respective areas, as has been no conflict, five places are still vacant, the case of the petitioner will be considered confining to the areas which are still vacant. After technical bid, the financial bid will be opened, if it is found that the petitioner is ready to carry the load at the same rate as that of the other tenderers, in such circumstance, the Committee will examine the same and take decision accordingly.

9. With the aforesaid observations and directions, this writ application is allowed.

(Shivaji Pandey, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
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