

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.1341 of 2017**

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1. Aakankcha Security Service And Company Pvt. Ltd. through the Managing Director, namely Kamal Nayan Prasad Singh, S/o Sri Nand Kishore Pd. Singh, Office of 211, Narayan Plaza, Exhibition Road, P.S. Gandhi Maidan, District Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Building Construction Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Building Construction Department, Govt. of Bihar, Patna.
3. The Joint Secretary, Building Construction Department, Govt. of Bihar, Patna.
4. The Engineer in Chief, Building Construction Department, Bihar, Patna.
5. The Chief Engineer (Patna), Building Construction Department, Bihar, Patna.
6. M/s KHFM Hospitality and Facility Management Service Private Limited Andheri(East) Mumbai- 4000059

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjay Prasad  
For the State : Mr. Amit Prakash-GA13  
Mr. Rajeev Shekhar, AC to GA-13  
For Private Respondent : Mr. Binodanand Mishra

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 09-08-2017**

Heard learned counsel for the petitioner and learned counsel for the State as well as private respondent.

In the present writ petition, petitioner has prayed for following reliefs; For quashing vide letter no.09(p) dated 2.1.2017, 10(p) dated 02.01.2017 whereby and whereunder the Respondetn/Departmental Tender Committee has cancelled the tender notice (e tender) No. 20K Bh. P/2015-16, 21.K, BH.P/15-16 and 22, K. BH. P/15-16 on the ground of rate of uploading



tenders has not followed Revised Minimum Wages fixed w.e.f. 2.12.2016 by Labour Department.

In the present case for the appointment of Security Guard an advertisement was published vide Advertisement No. P.R. 13370-15-16 dated 17.2.2016. The petitioner and private respondent have participated in the tender but due to certain reason the tender could not be materlized. The grievance has been raised by the petitioner that in the tender notice, requirement was, to provide minimum rates of wages under the heading for Wages which he quoted prevalent at that time but that tender has been rejected on the ground that petitioner did not quote correct minimum rates of wages as on the subsequent date when it was opened there was revision of minimum wages.

Learned counsel for the petitioner submits that petitioner was not knowing what would be the revision of minimum wages on the day of opening but he had quoted minimum wages what was prevalent at the time of filing tender whereas respondent did not even quote the minimum wages which was prevalent at that time. So the action of the department rejecting both tenders on the ground having not mentioned the minimum wages in their respective tenders is illegal and not sustainable in law and fact. He further submits that so far his tender is concerned it was/is



completely in accordance with law though tender, submitted by the private respondent who had not quoted the correct rate was illegal cannot be compared with tender of petitioner was suffering from illegality but he has not disputed that tender was not materlized whereas second tender was published that too could not be materlized and now Government is going to issue a fresh tender for supply of security guards.

As petitioner has not been selected nor respondent has been selected as contractor to supply security guards, in such circumstances, no direction can be issued for selection of the present petitioner or private respondent, but this Court directs the respondent authority to float a fresh tender and complete the process within a period of six months from the date of receipt/production of a copy of this order. The petitioner will be at liberty to participate in the fresh tender.

With the aforesaid observation and direction this writ petition is disposed of.

Vinay/-

**(Shivaji Pandey, J)**

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| AFR/NAFR          | NAFR      |
| CAV DATE          | NA        |
| Uploading Date    | 26.8.2017 |
| Transmission Date | NA        |

