

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11765 of 2013

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M/S Vaishnavi Build Tech. Private Ltd. Govt. Contractor & Supplier, through its Managing Director Hariom Kumar, son of Late Yogi Singh, Resident of Shankarwar Tola, Ward No. 16, Mokama, P.S. Mokama, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar, through the Principal Secretary, Rural Development Department, Patna
2. The Chief Engineer, Rural Works Department, Bihar, Patna
3. The Superintending Engineer, Rural Works Department, Munger
4. The Executive Engineer, R.W.D., Work Circle, Munger
5. The Executive Engineer, Rural Works Department, Works Division, Lakhisarai

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Bijay Kumar Pandey, Advocate Mr. Mukesh Kumar, Advocate
For the State	:	Mrs. Binita Singh, S.C.-28 Mr. Nishant Kumar Jha, A.C. to S.C.-28

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 10-10-2017 Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner seeks a direction from this Court for quashing the orders dated 25.03.2013 and 01.04.2013, issued by the respondent-Executive Engineer, by which the bid Tender No.BID ID 50315 in Tender No.2013 E.C.B.I.H. 13185-1 Tender Ref. No.MMGSY-13 LKH-6 for construction of road from PMGSY Road to Kalyanpur Harijan Tola and BID ID No.50592 in Tender ID No.2013 ECBIH 13180 in Tender Ref. No.MMGSY-13-LKH-3 for construction of Road in Halsi Block from Tarhari to Pipra have been rejected on the plea that the



Technical Evaluation Committee has come to the finding that the petitioner does not fulfil clause 2(2) of the NIT.

Learned counsel for the petitioner has drawn my attention to Annexure 6 and also clause 2(2) of the N.I.T. bid document, which clearly show that the petitioner has fulfilled the criteria and, therefore, the order of rejection was wholly misconceived.

Learned counsel for the State has, however, filed a counter affidavit stating that the petitioner did not represent against the orders as impugned in the present writ application; rather without representing and placing his grievances before the concerned authority has straightaway come to this Court for seeking appropriate relief. He further submits that had the petitioner filed any such representation, it would have been considered in accordance with law, but instead, the petitioner chose to withdraw the earnest money of Rs.2.5 lacs and, therefore, the Department presumed that the petitioner was not any longer interested in the bid. The bid has since been allotted to another party, who has taken up the work and virtually completed the work with regard to both the projects. It is, thus, submitted that the writ application is wholly misconceived and does not warrant interference by this Court.

Be that as it may, though the ground for rejection was



wholly *non est*, the petitioner has come to this Court without availing the appropriate remedy and since a third party right has already been created and they have been duly apprised of the third party right, no useful purpose would suffice to issue any writ in this regard.

The writ application stands dismissed.

(Anjana Mishra, J)

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