

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8056 of 2018

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Ramakant Singh Hotels Pvt. Ltd. through its Director Ramakant Singh, Son of Late Ram Khelawan Singh, Resident of Flat NO. 101, Lotus Apartment, New Patliputra Colony, P.S.- Patliputra, District & Town- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Tourism, Bihar Old Secretariat, Patna.
2. The Secretary, Department of Tourism, Bihar Old Secretariat, Patna.
3. The Director, Department of Tourism, Government of Bihar Old Secretariat, Patna.
4. The Bihar State Tourism Development Corporation Limited (A Govt. of Bihar Undertaking) through its Managing Director, Birchand Patel Path, Patna.
5. The Managing Director, Bihar State Tourism Development Corporation Limited (A Govt. of Bihar Undertaking) Birchand Patel Path, Patna- 800001 (Bihar).
6. The General Manager, Bihar State Tourism Development Corporation Limited (A Govt. of Bihar Undertaking) Tourist Complex, Bodh Gaya, (Bihar).
7. The Manager, Bihar State Tourism Development corporation Limited (A Govt. of Bihar Undertaking), Tourist Complex, Bodh Gaya, (Bihar).
8. The Patliputra Entertainments Pvt. Ltd. through its Directors, Registered address is 301, Maharaja Kameshwar Complex Fraser Road, Patna Bihar 800001.
9. The Chief Secretary, Government of Bihar, Old Secretariate, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. S.D. Sanjay, Sr. Advocate
Mr. Lal Babu Singh, Advocate
For the State : Mr. Jitendra Kumar, AC to AAG14
For the Corporation : Ms. Anukriti Jaipuriyar
Mr. Anshuman Jaipuriyar
Mr. P.K. Jaipuriyar, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-05-2018

Heard learned senior counsel for the petitioner, learned
counsel for the State as well as learned counsel for the respondent-
Bihar State Tourism Development Corporation Limited.

2. The present writ petition has been filed for quashing



the decision of the Tender Committee to disqualify the petitioner and reject its tender at the stage of technical bid without disclosing any reason; for quashing the entire proceedings arising out of Notice Inviting Tender dated 09.03.2018, bearing no. 03/26/H&C/Esstt./12-13 Part-1/286/18, for allotment of Hotel Vishnu Vihar, Gaya for operation and maintenance for 10 years; for declaration that a few of the tender conditions are discriminatory and has been inserted with the object of favouring some tenderers and to exclude the petitioner from participating in the tender process; for a direction to the Vigilance Department to conduct investigation against the erring officers of the respondents BSTDC; for a direction to the respondents not to proceed in the NIT dated 09.03.2018; and for connected reliefs.

3. The brief facts of the case according to the petitioner are that it was incorporated on 20.03.2018 as a registered company with two Directors, namely, Sri Rama Kant Singh and Sri Ashwani Kumar Singh, with the main object of taking over the existing hotel business being run by one of its Directors, Sri Rama Kant Singh aforesaid in his individual name. Pursuant to an NIT floated in the year 2012, Sri Rama Kant Singh successfully participated therein and was granted a licence for operation and maintenance of Hotel Vishnu Vihar vide allotment order dated 04.01.2013 and the licence agreement was duly executed in April, 2013. It is stated that even though Sri Rama Kant Singh was duly complying with all the conditions of the licence



agreement, a fresh NIT was issued with the intention of excluding him from participation by incorporating certain mandatory conditions therein rendering him ineligible from participation. Sri Rama Kant Singh raised objections against issuance of the re-tender by way of a representation for cancelling the fresh NIT and for granting extension in his favour as per the licence agreement which was not accepted by the respondents, leading him to file CWJC No. 5212 of 2018 which was dismissed by this Court on 22.03.2018.

4. Mr. S. D. Sanjay, learned senior counsel appearing for the petitioner, submits that the impugned NIT is wholly arbitrary in its terms, apart from the fact that it has been issued even prior to the licence agreement having come to an end. It is further submitted that in any event the petitioner-company fulfilled all the criteria of eligibility and its technical bid ought not to have been rejected arbitrarily, the reasons for which were also not communicated by the respondents.

5. Learned counsel for the petitioner has taken great pains to invite reference to the various terms and conditions of the fresh NIT and the manner in which all of these stood satisfied and fulfilled by the petitioner, despite which, however, its technical bid has been rejected.

6. Ms. Anukriti Jaipuriyar, learned counsel appearing on behalf of the respondent-Corporation, has vehemently opposed the writ petition, submitting that the entire tender process has been



conducted in a completely fair and transparent manner and suffers from no infirmity. She has equally taken pains to traverse and controvert each of the contentions of the petitioner. She has sought to demonstrate from her counter affidavit as well as her rejoinder to the supplementary affidavit that the NIT in question had been made the subject matter of challenge by the Director of the petitioner-company Sri Rama Kant Singh in his individual capacity in CWJC No. 5212 of 2018 wherein the issue was decided against him. The matter was carried further in LPA No. 421 of 2018 and thereafter in SLP No. 9748 of 2018, without success at either stage. As a matter of fact, the Hon'ble Supreme Court, while dismissing the said SLP on 18.04.2018, clearly observed that the appellant shall be taken to have vacated the premises the same day and he was granted two months' time to remove the machinery etc. from the premises. It is pointed out that despite such categorical order, the petitioner-company incorporated on 20.03.2018 for taking over the hotel business of its Director Sri Rama Kant Singh, continued carrying on commercial business in the hotel premises as communicated by the Manager, Tourist Complex, Bodh Gaya by his letter no. 253/18 dated 19.04.2018 even after termination of the licence period on 31.03.2018 and extension of date as granted by the respondents till 18.04.2018 for removing the machinery etc. and to vacate the premises. It is further stated that the tender process has since already been completed and a letter of offer has already been



issued in favour of the successful bidder.

7. Having heard learned counsel for the parties and on careful consideration of the materials on record, this Court is of the view that the issue-wise contentions raised by the petitioner and quite deftly answered by the respondent-Corporation, need not detain this Court. It is not of much relevance to test whether the petitioner fulfilled the mandatory eligibility criteria under the NIT and its technical bid has erroneously been rejected, particularly when some of these aspects involve seriously disputed questions of fact. As regards the contention that a few of the tender conditions have been inserted with the object of excluding the petitioner from participating in the tender process while favouring other tenderers and is thus discriminatory, learned counsel for the petitioner accepts that this aspect of the matter stands already decided in CWJC No. 5212 of 2018. Nothing of substance has been advanced on behalf of the petitioner to persuade the Court to take a different view of the matter.

8. This Court is more concerned with the attitude and conduct of the petitioner-company and its Director Sri Rama Kant Singh, who appear not to have any respect for the orders of this Court and think nothing of flouting the directions even of the Hon'ble Supreme Court, while rather brazenly again approaching this Court for relief. It is indisputably a fact on record that Sri Rama Kant Singh was denied relief in CWJC No. 5212 of 2018 by judgment dated 22.03.2018



(Annexure-8) clearly noticing his own admission in his letter dated 30.01.2018 that expiry of the term of lease was on 04.02.2018. The term of lease was extended till 31.03.2018 on payment of charges of Rs. 5,60,205/-. The Division Bench did not also interfere in LPA No. 421 of 2018 (Annexure-9) which was dismissed by judgment dated 05.04.2018, *inter alia*, granting time to wind up and hand over vacant possession of the property by 18.04.2018. The SLP No. 9748 of 2018 then filed against the judgment passed in the aforesaid LPA was also dismissed, clearly indicating that the premises were taken to have been vacated the same day, while granting two months' time to remove the machinery etc. from the premises. The respondents have pointed out that despite the order of the Apex Court by which the premises were treated as vacated on 18.04.2018, it transpires from the letter dated 19.04.2018 of the Manager, Tourist Complex, Bodh Gaya that commercial business was continuing in the Hotel premises which had marriage booking and guests were seen arriving and leaving. Some photographs of the hotel premises were also enclosed with the letter. The licence agreement had expired on 31.03.2018 itself. Extension of time had been granted only for vacating the premises and not to continue business. This aspect of the matter has not been disputed by the petitioner and it is therefore clear that there is no excuse or justification for violating the terms of the agreement which had expired on 31.03.2018 and continuing to carry on commercial business despite



clear orders of this Court and of the Apex Court.

9. In the above view of the matter, the writ petition stands dismissed with cost of Rs. 1,00,000/- (Rupees one lakh) to be paid by the petitioner in favour of the Secretary, Patna High Court Legal Aid Committee, Patna and file acknowledgement thereof in the office of this Court within one month from today.

(Vikash Jain, J)

B.T/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	24.05.2018
Transmission Date	N.A.

