

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11193 of 2013

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Manoj Kumar Pandey, Son of Rajendra Pandey, resident of Bhagat Singh Road,
Post and Police Station- Naugachhia, District- Bhagalpur.

.... Petitioner

Versus

1. The Union of India through the Chief Managing Director, Bharat Sanchar Nigam Limited, Chandra Lok Building, 36, Janpat, New Delhi- 110001.
2. The Chief Managing Director, Bharat Sanchar Nigam Limited, Chandralok Building, 36, Janpath, New Delhi- 110001.
3. The Chief General Manager, Bharat Sanchar Nigam Limited, Bihar Circle, Patna.
4. The General Manager, Telecom District, Bhagalpur.
5. Sri D.P. Singh., A.G.M. (Planning) Office of the General Manager Telecom District, Bhagalpur.
6. Sri Bhola Yadav, D.G.M. (Finance) Cum Internal Financial Advisor, Office of G.M.T.D., Bhagalpur.
7. Sri Su Kumar Kisku, D.E. (R), Chairman of Tender Opening Committee, Office Of The G.M.T.D. Bhagalpur
8. Sheri Tanzeem Nayab, S.D.E (Planning) and Member of Tender Opening Committee, Office of The G.M.T.D. Bhagalpur.
9. Smt. Ruma Paul, Sr. A.O. (Cash), and Member of Tender Opening Committee, Office of the G.M.T.D. Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. A.K. Mallick, Advocate.
For the BSNL : Mr. Sachidanand Singh, Advocate.
For the Resp. No. 1 : Mrs. Kanak Verma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 13-08-2018

The present writ petition has been filed for quashing the order dated 30.03.2013 cancelling the tender of the petitioner in pursuant to NIT dated 19.01.2013 in the concerned file no. 050/Tender/Maintenance of Broad Band Connection/12-13 passed at page no. 15 of the file by respondent no. 4; for quashing for fresh Notice Inviting Tender dated 02.05.2013 for the same Tender Vide No. 067/Tender/Maintenance of Broad Band Connection/13-14 issued



under the signature of AGM (Planning) respondent no. 5 as contained in Annexures- 6 and 7 of the writ petition and further for commanding the concerned authorities respondents to open the Tender Envelope which was submitted by the petitioner under PVC sealed Envelope as per the terms and conditions of NIT No. 050/Tender/Maintenance of Broad Band connection/12-13 dated 19.01.2013.

2. Learned counsel for the petitioner submits that the Notice Inviting Tender dated 19.01.2013 required submission of sealed (sealed with PVC sealing tape/sealing wax) open tenders. The petitioner had submitted his tender envelope sealed with PVC sealing tape. Petitioner's bid had not been opened as he had not used sealing wax. On the petitioner's objection, the Committee took note that the petitioner had laid blame upon TOC members and hence it was recommended to form another Committee for evaluation of tender. Without so doing however a fresh NIT dated 02.05.2013 was issued, abandoning the earlier tender.

3. Learned counsel for the respondents, on the other hand, submits that the petitioner raised several allegations against the members of the TOC and the matter became controversial. It was therefore decided to invite fresh tender by cancelling the earlier tender to avoid complications. It is submitted that part-II of the NIT reserved an unrestricted right to the General Manager, Telecom, District-Bhagalpur to reject any or all tenders without assigning any reason.



4. Having heard the parties and on a consideration of the materials on record, this Court is not inclined to interfere in the matter in its extraordinary writ jurisdiction. It is not the case of the petitioner that he was singled out and his tender was rejected on erroneous considerations rather it appears that the NIT dated 19.01.2013 itself was abandoned in view of the allegations made by the petitioner against members of the TOC and hence the bids of the tenderers were not opened at all. If a decision was taken to issue fresh NIT, it is more in the nature of a policy decision which this Court would not subject to scrutiny in judicial review moreso as no mala fide has been alleged. It appears that fresh Notice Inviting Tender dated 19.01.2013 has also failed as no bidder has turned up as stated by the respondents. Needless to say, the petitioner shall be entitled to participate in any fresh tender as may be issued in future.

5. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.08.2018
Transmission Date	N.A.

