

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8094 of 2019

Pranav Kumar son of Late Shobhakant Chaudhary resident of Village-
Dhamua Pataili, Pataili, P.S.- Ujiyarpur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Collector, Samastipur.
2. Bihar State Food and Civil Supplies Corporation Ltd., Daroga Prasad Rai Path, R Block, Patna through its Managing Director.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Daroga Rai Path, R Block, Patna.
4. The District Transport Committee, Samastipur through the District Collector, Samastipur.
5. The Collector-cum- Chairman, District Transport Committee, Samastipur.
6. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Aditya Prakash Sahay, Advocate
For the BSFC	:	Mr. Nirmal Kumar, Advocate
For the Respondent/s	:	Md. Anisul Haque, AC to AAG5

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 18-11-2019 In this writ application the petitioner is challenging the entire proceeding pursuant to Notice Inviting Tender (NIT) No. 816 dated 27.09.2018 which was published for selection of Transportation-cum- Handling Contractors (Main).

Mr. Aditya Prakash Sahay, learned counsel for the petitioner has confined his prayer to challenge made to the order dated 15.01.2019 by which the technical bid



of the petitioner has been rejected in the meeting held on 15.01.2019.

In the aforesaid view of the matter, Mr. Sanjit Kumar, learned counsel for the proposed intervenor does not press I.A. No. 01 of 2019.

Interlocutory Application No. 01 of 2019 is, thus, dismissed as not pressed.

It is the grievance of the petitioner that the District Transport Committee had rejected the technical bid of the petitioner mentioning therein, “rejected due to all documents furnished in the technical bid not being signed with seal”.

Mr. Aditya Prakash Sahay, learned counsel for the petitioner has taken this court through the terms and conditions of the NIT as contained in Annexure ‘1’ to the writ application. Reference has been made to Clause 10(ix) which provides that “in case, if any of the documents of the “technical bid” duly attested by the bidder/authorised person is not submitted in the technical bid, the tender will be rejected and the financial bid of the



tender will not be opened for further processing.”

Learned counsel has further shown from the tender documents, copies of which have been placed on record from page no. 36 to page no. 45 (Annexure ‘3’) that on all these papers the petitioner has put the seal of ‘self-attested’ and has himself signed in his full signature giving the date.

It is submitted that on the face of the documents as contained in Annexure ‘3’ having been sealed and signed, the petitioner has complied with the condition as contained in Clause 10(ix) of the NIT and there is no reason as to why the technical bid of the petitioner shall be rejected on this ground alone.

Mr. Nirmal Kumar, learned counsel for respondent no. 6 has drawn the attention of this court towards the statements made in the counter affidavit. It is submitted in paragraph ‘6’ that the technical bid of the petitioner has been rejected due to the fact that all documents furnished in the technical bid were not signed with the seal and the same is said to be a good ground of



rejection of the technical bid. He has also drawn the attention of this court towards serial no. 13 of the check-list which provides the different items which are required to be cross-checked and verified while considering the technical bid of the petitioner.

It is also submitted that in case of any dispute a District Level Resolution Committee has been constituted to consider the same.

Having heard learned counsel for the petitioner and learned counsel representing the respondent no. 6 and after carefully perusing the records, this court finds that the technical bid of the petitioner has been rejected on a totally flimsy ground in an arbitrary manner. In the counter affidavit there is no denial of the fact that in terms of Clause 10(ix) of the NIT the petitioner has submitted all the documents of the technical bid duly self-attested by him. The check-list at serial no. 17 talks of a verification as to whether every page of the tender document is signed with seal. This has to be read in consonance with Clause 10(ix) of the NIT. Learned counsel for respondent no. 6



does not deny that the assertion of the petitioner that he had submitted all the document papers duly self-attested with seal of self-attestation and his signature is correct. Learned counsel for the petitioner has rightly relied upon the various judgments of the Hon'ble Supreme Court including the judgment reported in **2010(2) PLJR 153 (Ramsarup Industrial Corporation Vs. State of Bihar)** and the judgment reported in **AIR 1991 SC 1579 (M/s Poddar Steel Corporation Vs. M/s Ganesh Engineering Works)** wherein it has been held that the conditions of the NIT are to be enforced after considering whether a condition is ancillary or subsidiary.

In the opinion of this court, on the face of the materials available on the record it is evident that the petitioner had duly self-attested all the documents and the seal of 'self-attested' has also been put there. In such circumstance, there was no reason for the respondent authorities to reject the technical bid of the petitioner. The rejection is wholly arbitrary and is accordingly set-aside. The Minute of the meeting of the District Transport



Committee held on 15.01.2019 to the extent it talks of rejection of the technical bid of the petitioner is hereby set-aside. The respondent authorities are directed to consider the case of the petitioner after opening of his final bid.

The Writ Application is accordingly allowed.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U			
---	--	--	--

