

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1655 of 2020

1. Ram Babu Kumar, son of Parshuram Prasad resident of Village- Bherkuiyan, P.O. and P.S. Barauli, District- Gopalganj, presently residing at Sanjay Cinema Road, Brahmpura, P.O.- M.I.T., P.S. Brahmpura, District- Muzaffarpur.
2. Rajneesh Kumar, son of Jagat Narayan Singh resident of Village- Tejpurwa, P.O. Sonewal, P.S. Malahi, District- East Champaran at Motihari.
3. Ajit Kumar Singh, son of Ramprit Singh resident of Village and P.O. Fatehabad, P.S. Paroo, District- Muzaffarpur.
4. Chandan Kumar, son of Sri Nagendra Kuer resident of Village- Saidpur, P.O.- Parsa, P.S. Dariyapur, District- Saran at Chapra.
5. Chandan Kumar, son of Sri Subodh Kumar Tiwary resident of Village- Thatiya, P.O. Balaur, P.S. Kurhani, District- Muzaffarpur.
6. Jai Prakash Singh, son of Gajendra Dubey resident of Mohalla- Pankha Toli, P.S. Kazi Mohammadpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Consumer and Food Protection Department, Government of Bihar, Patna.
2. The District Magistrate-cum- Chairman, District Transport Committee, Muzaffarpur, District- Muzaffarpur.
3. The Bihar State Food and Civil Supplies Corporation Ltd., Food Building, Daroga Prasad Rai Path, R Block, Road No. 2, Patna through the Managing Director.
4. The Managing Director, The Bihar State Food and Civil Supplies Corporation Ltd., Food Building, Daroga Prasad Rai Path, R Block Road No. 2, Patna.
5. The District Manager, The Bihar State Food and Civil Supplies Corporation Ltd., Muzaffarpur, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anita Kumari
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 14-02-2020

Heard the learned counsel for the petitioners and
the State.



The matter has been taken up for admission on the mentioning of Mr. S.B.K. Manglam, learned advocate for the petitioners, expressing urgency in the matter as a fresh notice inviting tender, according to the petitioners, has been issued without consideration of the claim / offer of the petitioners.

It appears from the records that a notice inviting tender was issued by the District Transport Committee of Muzzafarpur of which the District Magistrate, Muzaffarpur is the Chairman, for entering into contract with a successful bidder for transportation for "Door Step Delivery System" under the Bihar Targeted Public Distribution System. The petitioners, who had participated in the aforesaid tender were found to have offered the lowest rate and an agreement with them was concluded for four years. Another notice inviting tender was floated in the year 2018 in which the petitioners were ranked at L-3. The contract with L-1 was concluded but for some reasons or the other, the tenderer with the lowest rate did not



carry out the transportation work. Under the aforesaid circumstances, the petitioners were asked to continue with their work of transportation under the "Door Step Delivery System" as transporters on the rate which was offered and accepted by Transport Committee under the 2014 agreement. The petitioners made a representation before the concerned authorities for allowing them to perform at the rate offered by L-2.

Be it noted that the rate offered by the tenderer which was placed at the L-2 in the tender of 2018 is lesser than what was offered by the petitioners and on which rate the petitioners are still transporting.

The only request of the petitioners therefore is that their offer ought to be considered before floating a fresh tender because they are ready to work on a lower rate which would be beneficial for the respondents and it would also result in further extension of contract of the petitioners.



Thus, the sum and substance of the contention raised on behalf of the petitioners is that in case of such consideration and a decision being taken in that regard, it would serve twin purpose *viz* that the respondents would be able to get the work done at a lesser cost and the petitioners would have the certainty of continuing with the work for another determinate period of time.

What has brought the petitioners rushing to this Court is the information to them that a fresh notice inviting tender is about to be floated or has been floated.

The law with respect to tenders is absolutely clear and does not require to be tested in the present order.

It is not only the rate of contract which is relevant but other aspects also which are to be taken into account by an authority which floats the tender. The petitioners may be ready to work on a lower rate but that would not prevent the respondents / District Transport Committee to explore new vistas and possibilities and the petitioners under that circumstance would not have any grievance if



they are allowed to participate in the fresh tender. It would be open for the petitioners to offer such rate which would be lower than the rate offered in the year 2014. A fresh tender under the circumstances would have another distinct advantage of there being fairness in the process and allowing others also to participate in such tender.

Thus, the prayer made on behalf of the petitioners for directing the respondents to consider the claim / offer of the petitioners before floating of the fresh tender is without merit.

The petition is thus dismissed.

(Ashutosh Kumar, J)

skm/Gaurav

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	17.02.2020
Transmission Date	

