

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7711 of 2020

Subodh Goel and Co. Chartered Accountants of the partnership firm of Chartered Accountants having its registered office at 202, Second floor, Exhibition Road, P.S. Gandhi Maidan, District- Patna through one of its partner Subodh Kumar Goel, Male, aged about 52 years, Son of Shri Matadin Goyal, Resident of Flat No. 506, Santosha Complex, Bandar Bagicha, P.S. Kotwali, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Human Resource Department (Education Department), Vikash Bhawan, Bailey Road, Patna.
2. The Bihar Education Project Council, Siksha Bhawan, Campus of Rashtrabhasa Parishad, Saidpur Rajendra Nagar, Patna - 800004, through the State Project Director.
3. The State Project Director, Bihar Education Project Council, Siksha Bhawan, Campus of Rashtrabhasa Parishad, Saidpur Rajendra Nagar, Patna - 800004.
4. The Chief Accounts Officer, Incharge, Bihar Education Project Council, Siksha Bhawan, Campus of Rashtrabhasa Parishad, Saidpur, Rajendra Nagar, Patna - 800004.
5. The Deputy Director, Primary Education, Department of Human Resource Department (Education Department), Vikash Bhawan, Bailey Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. S.D. Sanjay, Sr. Adv.
For the BEPC : Mr. Girjesh Kumar, Adv.
For the State : Mr. Priyadarshi Matri Sharan, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR



ORAL JUDGMENT

Date : 05-10-2020

Heard Mr. S.D. Sanjay, learned Senior Advocate for the petitioner, Mr. Girijesh Kumar, learned counsel for the Bihar Education Project Council and Mr. Priyadarshi Matri Sharan for the State.

2. The petitioner, a group of Chartered Accountants, is aggrieved by the decision of the Bihar Education Project Council (*in short the Council*) for technically rejecting their claim for being selected as concurrent Auditors for the financial year 2020-2021.

3. A tender was issued under the agency of *Samagra Shiksha* in the State of Bihar and the prospective Auditors were required to furnish certain documents including the "constitution certificate" of the firm. The petitioner did furnish the "constitution certificate" of the firm and along with the "constitution certificate", a firm card also was furnished. All the details which were required to be given for the evaluation of a candidature of a particular group of Chartered Accountants has been provided. However, Tender Evaluation Committee did not find the



document of the petitioner to be complete in as much as, the "constitution certificate" was not found to be the one which was given by the other bidders and which the respondent/Council was expecting from the bidders. Nonetheless, a complaint was made on the next day of such decision of holding the petitioner to be technically unresponsive in which these issues were brought to the notice of the authority concerned.

4. The objections were not responded and the financial bid was opened.

5. Hence, the present petition.

6. With the passage of time, some of the concurrent Auditors of different zones have already been selected by the Council.

7. However, from the pleadings offered on behalf of the parties, what appears to be rather clear is that the information which was sought in a "constitution certificate" was provided by the petitioner. The phraseology/terminology of the documents furnished by the petitioner may not have been the same which was offered by



the other bidders or which was in the expectation of the Council. Nonetheless, whatever details were required for evaluation of the candidature of a particular bidder was available in the certificate given by the petitioner.

8. In any view of the matter, considering the aforesaid fact that the petitioner had not annexed along with the documents the "constitution certificate" as was expected of any bidder, the petitioner's claim was rejected.

9. Mr. Girijesh Kumar, learned Advocate of the Bihar Education Project Council has tried to impress upon this Court that the "constitution certificate" is different from the document which has been offered by the petitioner. However, simultaneously he has further submitted that there was no *mala fides* in rejecting the claim of the petitioner in as much as the petitioner was chosen as concurrent Auditors for two consecutive financial years. It is only because of a technical objection, which, in the estimation of this Court, is not a very valid objection, the claim of the petitioner has been rejected.

10. However, now with the selection of various



Auditors for different zones, nothing else can be done except for giving a direction that this litigation by the petitioner be not taken/perviewed taken in any adverse way when the petitioner would apply for such engagement with the Council for the next financial year.

11. The Bihar Education Project Council would also be well advised to specify in the advertisement the requirement in greater detail, especially with respect to the constitution certification to be offered by the bidders.

12. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	08.10.2020
Transmission Date	N/A

