

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7738 of 2020

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Ranjeet Prasad Son of Rambriksh Prasad, Resident of Village-Bara Tetariya
Khurd, Police Station-Baarachatti, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Prasad Ray Path, R. Block, Road No.2, Patna 800001.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., District Office, Gaya.
5. The Members of District Transport Committee, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Binay Kumar, Advocate
For the State	:	Mr. Gyan Shankar, Ac to GP 2
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 18-09-2020

This matter has been taken up for hearing through video conference. Learned counsel for the petitioner undertakes that all defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of physical functioning of the Court, and in any event within one month thereof. Learned counsel for the respondents states that they have no objection in this regard and the matter be taken up on merits in view of the stated urgency.

2. The present writ petition has been filed *“for a direction to the respondents to consider the tender of the petitioner in view of the principle of law laid down by this*



Hon'ble Court in CWJC No. 13263 of 2008 (Pawan Kumar vs. The State of Bihar and others) and its analogous case as Clause 10(vii) of the NIT No. 5784 dated 08.07.2020 which obstruct the petitioner from taking part in bidding process merely on the ground of FIR has been lodged by competent authority and/or pass such other order(s) as your Lordships may deem fit and proper under the facts and circumstances of the case".

3. Learned counsel for the petitioner states that the petitioner is a contractor of Handling and Transporting Agent under doorstep delivery (DSD) scheme of Bihar State Food and Civil Supplies Corporation Ltd., (hereinafter referred to as the 'Corporation') and has work experience in this regard. A notice inviting tender no. 5784 dated 08.07.2020 was issued by the Corporation for appointment of Transporting and Handling Agent for Revenue District of Gaya. Learned counsel for the petitioner makes a statement at the Bar that the petitioner duly participated in the tender and submitted his bid. Reference is invited to Clause 10(vii) of the NIT which provides that *"Cognizance taken by Court of law or FIR has been lodged by competent authority in any matter related to Transportation, Handling, Pilferage, Black marketing etc., of food grains against a bidder or Transporter will amount to ineligibility for the purpose of taking part in bidding process or continuing as a Handling and Transporting Contractor."* It is stated that Paraiya P.S. Case No. 206 of 2018 has been registered under Section 7 Essential Commodities Act in connection with accusation against some PDS dealers in which the petitioner's name has also been dragged in course of investigation. It is therefore apprehended that the petitioner's bid will not be considered for the reason stated above. Reliance is placed on a decision of this Court dated 07.01.2009 in *CWJC No. 13263 of 2008 (Pawan Kumar vs. The State of*



Bihar) and analogous case, inter alia, observing that “It is well established that mere pendency of criminal case does not lead to any conclusion of guilt. On mere allegation by a party, if a person is to be deprived from his right to business it would amount to a punishment with irreparable injury, for if after five years the allegations are found to be false, the loss suffered, as a consequence of being deprived of business cannot be compensated by any one in any manner.”

4. Learned counsel for the respondent-Corporation appears and opposes the writ petition, submitting that the same has been filed prematurely. Having participated in the tender process with full knowledge of the terms and conditions of the NIT, the petitioner cannot now be allowed to challenge the terms of the NIT. In any event, apprehension of the petitioner is premature as the bids have not yet been opened and the matter is pending before the District Transport Committee. There is nothing to indicate at this stage that any adverse decision against the petitioner would be taken. As regards reliance placed by the petitioner on a decision in *Pawan Kumar’s case (supra)*, it is submitted that the same is distinguishable on facts. In that case, there was recommendation after due investigation for filing final form for not prosecuting one of the petitioners. With regard to the other petitioner in that case, two cases had been filed against him, in one of which he was acquitted and in the other, final form had been recommended after investigation. In the present case, FIR has been filed against the petitioner which is still under investigation.

5. Having heard the parties and on consideration of the materials on record, this Court is not inclined to pass any positive order at this stage. It is not in dispute that the petitioner, with full knowledge of the terms of the NIT, has



participated by submitting his bid, which is pending consideration. Significantly, the terms of NIT are not challenged in the present writ petition and as such only an apprehension has been expressed that clause 10(vii) of the NIT may come in the way of the petitioner's bid being considered.

6. In these circumstances, the writ petition is dismissed with the observation that if the petitioner is aggrieved by any adverse order in future, he may approach this Court if so advised.

7. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	.
Uploading Date	21.09.2020
Transmission Date	-

