

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8151 of 2020**

=====

Bhola Sharan Singh Son of Late Ram Lakhan Singh, resident of village-  
Hasanpur, Shahpur Tola, Pirpardih P.S. Aurangabad, District- Aurangabad,  
Bihar

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Rural Works  
Department, Government of Bihar, Patna
2. The Engineer in Chief Rural Works Department, Government of Bihar,  
Patna
3. The Engineer in Chief cum Secretary Technical, Rural Works  
Department, Government of Bihar, Patna
4. The Chief Engineer-2 Rural Works Department, Government of Bihar,  
Patna

... .. Respondents

=====

**Appearance :**

|                    |   |                              |
|--------------------|---|------------------------------|
| For the Petitioner | : | Mr. Prabhat Ranjan, Advocate |
| For the State      | : | Mr. Kumar Alok, SC-7         |

---

**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**  
**ORAL JUDGMENT**  
**Date : 17-03-2021**

Heard learned counsel for the petitioner and learned  
counsel for the State. Learned counsel for the petitioner has filed an  
undertaking to remove all defects pointed out by the Stamp  
Reporter as and when required. It is accordingly directed that all  
defects pointed out by the Stamp Reporter be removed within one  
month hereof.



2. The following reliefs as formulated by the petitioner have been claimed in the writ petition –

*“(i) Quashing of the decision of the Technical Bid Evaluation Committee dated 11.08.2020 in connection with Notice Inviting Re-Tender MR-3054-15/2019-20 regarding Tender ID No. 94230, 94232 and 94234 respectively (Annexure-1) whereby the Technical Bids of the petitioner have been rejected and the petitioner has been disqualified upon an illegal ground that the work awarded to him earlier vide Agreement No. 05/MBD/19-20 has not even been started though the contemplated date of completion is 03.09.2020; and*  
*(ii) Restraining the respondents from finalizing the Tender arising out of in connection with Notice Inviting Re-Tender MR-3054-15/2019-20 regarding Tender ID No. 94230, 94232 and 94234 respectively during the pendency of the present writ application.”*

3. The petitioner is aggrieved by the fact that his technical bid has been disqualified on irrelevant grounds and without prior notice to the petitioner which has resulted in civil consequences. Learned counsel for the petitioner submits that had a prior opportunity been granted, the petitioner would have been able to demonstrate that the criteria for disqualification as given in Clause 4.7 (ii) of the Model Bidding Document (MBD) were not attracted. In this regard, a representation dated 24.08.2020 has been filed before the Principal Secretary, Rural Works Department,



Government of Bihar, Patna (page-32 of the writ petition) which however remains pending.

4. Learned counsel for the respondents appears and opposes the petition, submitting that due reasons have been assigned in the impugned order dated 11.08.2020 (Annexure-2 series) and hence there is no arbitrariness in this regard. It is submitted that in terms of instructions to bidders, the petitioner had duly accepted the conditions in the MBD and therefore he was bound by Clause 4.7 (ii) of the MBD in particular.

5. Having heard the parties, on consideration of the materials on record and also having regard to the pending representation of the petitioner, the writ petition is disposed of with liberty to the petitioner to appear before the Principal Secretary, Rural Works Department, Government of Bihar, Patna (Respondent No. 1) on 05.04.2021 at around 3:00 pm (being the date and time consented to by the parties) to enable him to pursue the said representation dated 24.08.2020. The Principal Secretary shall accordingly consider and dispose of the said representation after hearing the petitioner, on its own merits by a reasoned order within two weeks thereafter.

6. It is made clear that any further action taken in relation to the contract shall abide by the final result of disposal of the representation.



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)

Ibrar/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | N.A.       |
| Uploading Date    | 19.03.2021 |
| Transmission Date | N.A.       |

