

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2631 of 2021

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Ramesh Kumar Son of Sattan Ram Resident of Mohallah- I.D.H. Colony,
Behind National Health Institute, P.S.- Alamganj, District- Patna (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development, Vikash Bhawan, Bailey Road, Patna.
2. The Managing Director-cum-Chief Executive Officer, Bhagalpur, Smart City Limited, Bhagalpur.
3. The Chief Executive Officer, Bhagalpur Smart City Limited, Bhagalpur.
4. Veereshwar Kripa Infrastructure through its Proprietor Sanjay Kumar, Resident of B 206, Shashwat Mahadeo Heights, S.P. Ring Road, Vastral, Ahmadabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Uma Shankar Tiwary, Advocate
For the Respondent/s	:	Mr. Manish Kumar, Advocate
		Mr. Maruth Nath Roy, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-11-2021

Petitioner has prayed for the following reliefs: -

“A. For quashing the Tender Cancellation Order against NIT No. BSCL/Night Shelter/2020/20 (Annexure-) by which the Respondent No. 2 has arbitrarily, malafide and due to extraneous consideration has cancelled the Tender/N.I.T. against which the Petitioner as has already qualified both Technically



& Financially by the Tender Committee.

B. For the issuance of a writ of Mandamus directing the Respondents to allot the to the Petitioner whom the Tender Committee was duly declared qualified both Technically and Financially after scanning the documents by the Petitioner pursuant to the NIT's requirements.

C. For stay the operation of Re-Tender Process (Annexure -) of the work under reference during the pendency of the writ petition.

AND / OR

Your Lordships may deem to pass any appropriate direction/Order may be passed in the interest of justice and the facts and circumstances of the case.”

Vide corrigendum -3 dated 29th of June, 2020, notice inviting tender was issued for construction of night shelters in Bhagalpur, Bihar with operation and maintenance for five years. The said project was undertaken under the Smart City Mission mode.

Petitioner contends that he had submitted his bid in terms of the N.I.T. and the Technical Evaluation Committee as also the Tender Committee found the petitioner to be fully



eligible. However, before any final decision could be taken, without assigning any reasons, the tender stands recalled vide notice of cancellation (Annexure-5, page-241).

We do not find the petitioner to have made out any case for interference with the said notice of cancellation for it cannot be said that petitioner has an indefeasible right in the award of tender even if the Tender Evaluation Committee has found the petitioner's bid to be technically qualified. The impugned notice of cancellation does assign reason for cancelling the tender and, in fact, we find that pursuant thereto, a fresh N.I.T. notice (Annexure-6, page 242) inviting tender stands issued with respect to the very same work.

Learned counsel for the respondents, could not state the position with regard to the said process initiated in terms thereof.

Be that as it may, we see no reason to interfere in the present writ petition, which is disposed of with the direction to the Respondent No. 2, namely The Managing Director-cum-Chief Executive Officer, Bhagalpur, Smart City Limited, Bhagalpur, to positively finalize the process of tender in terms of Annexure-6, if not so already done, within a period of three weeks from today.



We are constrained to pass such an order considering the fact that the work was for providing shelter to the homeless during the winter months.

Petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.11.2021
Transmission Date	

