

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16845 of 2021

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Parmatma Tiwari, aged 39 years, Son of Ram Naresh Tiwari, Resident of Village - Urda, Police Station - Chenari, District - Rohtas.

... .. Petitioner

Versus

1. The State of Bihar, through Rural Works Department, Government of Bihar, Vishweshwaraiya Bhawan, Jawaharlal Nehru Marg, Patna, Bihar - 800001.
2. The Secretary, Rural Works Department, Government of Bihar, Vishweshwaraiya Bhawan, Jawaharlal Nehru Marg, Patna, Bihar - 800 001.
3. The Additional Chief Secretary, Rural Works Department, Government of Bihar, Vishweshwaraiya Bhawan, Jawaharlal Nehru Marg, Patna, Bihar - 800 001.
4. The Engineer- in-Chief, Rural Works Department, Government of Bihar, Vishweshwaraiya Bhawan, Jawaharlal Nehru Marg, Patna, Bihar - 800 001.
5. The Executive Engineer, Rural Works Department, Work Division, Bhabua, Kaimur.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Abhishek Kumar, Adv.
For the Respondents : Mr. Kumar Alok SC-7.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 24-01-2022

This matter has been taken up for hearing online because of *COVID-19* pandemic restrictions.

2. In response to a short notice inviting tender No. MR-3054-09/2021-22, dated 01.06.2021 issued by the Rural Works Department, Govt. of Bihar, for maintenance of Rural roads, the petitioner had submitted his bid, along with others. His technical



bid came to be rejected on 13.09.2021. A copy of the instructions to bidders (for short 'I.T.B.') has been brought on record by way of Annexure to a supplementary affidavit filed on behalf of the petitioner.

3. It transpires that the petitioner had, admittedly, not complied with the requirement of Clause 4.2(g) of the I.T.B. It is the petitioner's case that his technical bid ought not to have rejected for non-compliance of requirement under Clause 4.2(g) of the I.T.B., same being rectifiable in nature and not mandatory. Learned counsel appearing on behalf of the petitioner has relied on a Division Bench decision of the Orissa High Court in Writ Petition (Civil) No. 21779 of 2019 in support of his contention that the said Clause is not mandatory. The fact, however, remains that Clause 22.6 of the I.T.B. permitted the bidders to submit complaint after the result of evaluation of technical bid.

4. It is the petitioner's case that he had made a complaint against rejection of technical bid on 16.09.2021. In support of the said contention a supplementary affidavit has been filed bringing on record a letter dated 16.09.2021 (Annexure-7) addressed to the Chief Engineer, Rural Works Department, Govt. of Bihar, by the petitioner. Learned counsel for the petitioner has submitted that since the said complaint was filed



within the time prescribed under Clause 22.6 of I.T.B., the authorities ought to have duly considered the said objection in accordance with Clause 22.6 of the I.T.B.

5. We have carefully perused Annexure-7 of the supplementary affidavit filed on behalf of the petitioner. The said communication cannot be treated to be a complaint against rejection of the petitioner’s technical bid. The same is merely a communication to the Chief Engineer regarding pendency of a writ application before this Court and a request to stay the tender process till the present writ application was decided.

6. Since the petitioner failed to avail the remedy in terms of the I.T.B., in our opinion, this Court, exercising power of judicial review, in contractual matters, not required to interfere, in the facts and circumstances of the case.

7. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

