

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12345 of 2022

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Santosh Kumar Son of Sri Suresh Prasad Singh, Managing Director to SL RATHOUR HOTELS PRIVATE LTD. office cum residence House No. 10 Moti Mahal Khagri Road Digha PS Danapur District Patna.

... .. Petitioner/s

Versus

1. The Bihar State Tourism Development Corporation Ltd. through its Managing Director office at Beerchand Patel Path Patna.
2. Managing Director Bihar State Tourism Development Corporation Ltd, Office at Beerchand Patel Path Patna.
3. The State of Bihar, through the Principal Secretary Ministry of Tourism Development Department Bihar Patna.
4. Principal Secretary, Ministry of Tourism Development Department Bihar Patna.
5. Assistant Director, Department of Tourism Government of Bihar at Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Diwakar Prasad Singh, Advocate Mr. Amardeep Lokpriya, Advocate
For the State	:	Mr. Kapileshwar Pd. Yadav (GP11) Mr. Santosh Chandra Bhaskar, Advocate
For Respondent Nos. 1,2:	:	Ms. Anukriti Jaipuriyar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-09-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- (i) That the Notice inviting Tender **(Request for Proposal for selection of agencies)** so far it relates with the Condition No.5A-7, 5B-7, & 5C-7 published in Notice Inviting Tender in Column-5 for evaluation of bidders Competency & capability be Quashed since its goes to punish those exercise their right & remedy against the bias & malafide action of Second Party.



- (ii) That direction be given to the respondent to remove such erroneous condition from Request for Proposal for selection of agencies (Annexure-1) which seriously jeopardize the fundamental rights & remedy available in case of violation as such the privilege of public & JV/Consortium, Private Limited Company, Public Limited Company, Partnership Firm, Proprietorship, etc was tried to be taken away simply because they exercise their right to register Case against the respondent & much less incase of their right to arbitration as such direction may kindly be given to publish fresh Tender removing erroneous conditions as deliberately recorded.
- (iii) That for grant of any other relief or reliefs to which the petitioner is found entitled in law be granted to them.

Petitioner lays challenge to the essential condition of tender which prohibits a party who is in litigation with the respondent Corporation or against whom certain dues are pending.

The relevant clause is extracted as under:-

“Pending Litigation: The bidder or any member of the JV/consortium shall not have any current or pending dues/litigation including arbitration in any court or tribunal against the BSTDC.”

It is a settled principle of law that the author of the document is free to lay down and prescribe such conditions which are just, fair and reasonable. The author is an expert and person best equipped to determine such conditions. It is also a settled principle of law that unless and until the condition is



manifestly arbitrary, the Courts are not to intervene and interdict the process of tender.

In the instant case, as we are informed by the respondents, the tender process is over.

Be that as it may, we do not find the condition extracted supra, to be arbitrary, much less manifestly arbitrary in any manner. Reasonable classification and categorization is evidently clear reflecting the mind of the author of the document. They are not desirous of having any business/commercial transactions with any person who has failed to pay the dues that of the author or the one who is litigating with him.

For the aforesaid reasons, we dismiss the present petition.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
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