

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1042 of 2023

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Pappu Kumar, Son of Raghuvir Yadav, Resident of Village- Durve, Police Station- Chandauti, District- Gaya.

... .. Petitioner/s

Versus

1. Bihar State Food and Civil Supply Corporation Limited through its Managing Director, Daroga Prasad Rai Path, Patna.
2. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Daroga Prasad Rai Path, Patna.
3. The District Officer-cum- Chairman, District Transport Committee of BSFC, Gaya.
4. The District Manager, Bihar State Food and Civil Supply Corporation Limited-cum- Secretary, District Transport Committee, Gaya.
5. The District Transport Officer-cum- Member, District Transport Committee, BSFC, Gaya.
6. The Additional Collector, Member, District Transport Committee, BSFC, Gaya.
7. The District Development Officer, Member, District Transport Committee, BSFC, Gaya.
8. The District Supply Officer-cum- OSD of District Magistrate, Gaya, District- Gaya.
9. The State of Bihar through the Principal Secretary Food and Civil Supply Department Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rabindra Kumar Priyadarshi, Advocate
For the State	:	Mr.Arvind Ujjwal, SC-4
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ARUN KUMAR JHA)

Date : 14-02-2023

Heard learned counsel for the petitioner and learned
counsel for the respondents.

The present writ petition has been filed claiming the



following reliefs :-

“(A) For quashing of Memo No.-1928 dated 09.12.2022 whereby the Bid of the petitioner has been found technically invalid and non-responsive and therefore rejected on non-est ground.

(B) For issuance of appropriate order/orders directing respondent authorities to declare the Bid of the petitioner valid and responsive and further the authorities be directed to allow the petitioner to participate in financial bid.

(C) For grant of other relief/reliefs for which the petitioner is found entitled from the facts and circumstances of the case.”

The short facts, according to the petitioner, are that pursuant to a Notice inviting E-Tender bearing NIT No. 153 dated 29.01.2022 issued for selection of transporters-cum-handling & delivery contractors (DSD) to transport foodgrains from FCI Godown to SFC, the petitioner participated in the tender process. A meeting dated 18.11.2022 under the Chairmanship of District Officer-cum-Chairman of District Transport Committee, BSFC, Gaya was held for taking a decision on technical bid. Vide Column No.6 of the Technical Bid proceeding, the technical part of the bid of the petitioner has been rejected finding it to be non-responsive for the reason that the petitioner had affixed stamp of Rs.100/- instead of Rs.125/-.



Thereafter, the District Officer-cum-Chairman, BSFC, Gaya had issued notice vide Memo No.1928 dated 09.12.2022 declaring the names of successful bidders and for filing of the objections by the bidders/stakeholders found eligible/not eligible on or before 15.12.2022. Pursuant to the aforesaid notice dated 09.12.2022, the petitioner filed his objection on 13.12.2022 submitting that with regard to shortage of welfare stamp/less stamp, the petitioner was ready to deposit the penalty in terms of Section 40 (1b) of the Indian Stamp Act and further submitted that the petitioner had already deposited stamp of Rs.100/- and was further ready to deposit deficit stamp, but no action has been taken on the objection of the petitioner.

The learned counsel for the petitioner has submitted that the technical bid of the petitioner has been rejected finding non-responsive for the reason that the petitioner had affixed stamp of Rs.100/- in place of Rs.125/- and the petitioner is ready to deposit any penalty higher than the deficit stamp as the petitioner was not aware regarding welfare stamp and quantum of stamp. Moreover, the shortage of stamp duty is not under the head of essential criteria for disqualification of bid documents. So, the respondents-authorities be directed to declare the bid of the petitioner valid and responsive and allow the petitioner to participate in the financial bid.

The learned counsel for the respondents while



justifying the reasons for rejection of technical bid of the petitioner, vehemently contended that the grounds of rejection of technical bid of the petitioner are well justified and the petitioner's technical bid has been rejected for affixing deficit stamp on the affidavit accompanying bid document. Hence, no interference is required by this Court in this matter.

Having considered the material available on record and rival submissions, it appears that on 18.11.2022, the technical bid of the petitioner has been rejected due to insufficiency of stamp on affidavit submitted during the bidding process. It further appears that after due application of mind, the Authorities have rejected the technical bid of the petitioner and, thereby, no illegality or irregularity has been committed in rejecting the technical bid of the petitioner and the reasons assigned for rejection of technical bid of the petitioner are well justified and the same do not require interference by this Court.

It is well settled principle of law that the constitutional courts are expected to exercise restraint in interfering with the administrative decisions and ought not to substitute its view for that of the administrative authority. The courts will not interfere with the decision at the behest of an unsuccessful bidder in respect of a technical or procedural violation. The Apex Court in the case of *Tata Cellular v. Union of India*, (1994) 6 SCC 651 has laid down the following principles in paragraph 94 :-



“94. The principles deducible from the above are:

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy



administrative burden on the administration and lead to increased and unbudgeted expenditure.

Based on these principles we will examine the facts of this case since they commend to us as the correct principles”.

It further appears the Authorities are yet to decide objections filed by the petitioner against rejection of the technical bid. But in the light of settled position of law in the case of ***Tata Cellular (Supra)***, the same is immaterial.

Accordingly, this writ petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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