

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2421 of 2022

Nishka Security and Intelligence Services a partnership firm having its office at BG-3, Royal Garden, Nageshwar Colony, PS-Budha Colony, Patna-800001, through its partner, Smt. Ragini Ranjan, female, aged about 58 years, Wife of/daughter of Rajeev Ranjan, resident of Flat No. 404, Veena Shri Apartment, New Punaichak, P.S.-Shastri Nagar, District-Patna, Pin-800023.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Patna Medical College Hospital, Patna through its Superintendent.
3. The Superintendent, Patna Medical College Hospital, Patna.
4. Indraprasth Security Services Pvt. Ltd. having its registered office at 46, Ashiana Galaxy, Exhibition Road, 800001 through its Directors.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Saket Tiwary, Advocate
For the Respondent/s	:	Mr. Binod Kr. Yadav, SC-18
		Mr. Aditya Nath Jha, AC to SC-18
For Respondent no.4	:	Mr. Vikash Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

20 08-08-2023

In the instant petition, the petitioner has prayed for
the following relief(s):-

“a) For issuance of a writ of certiorari to set aside the selection of the Respondent No. 4 as the lowest bidder for tender issued by Respondent, Patna Medical College Hospital, Patna vide Memo No. 9674 dated 29.10.2021 for Trolley Services to patient of Patna Medical College Hospital, Patna.

b) For a direction to the Respondents to award the tender to the petitioner holding him to be the only



eligible bidder with regard to the tender issued by Respondent, Patna Medical College Hospital, Patna vide Memo No. 9674 dated 29.10.2021 for Trolley Services to patient of Patna Medical College Hospital, Patna.

c) Till the pendency of this writ application stay the award of contract from tender issued by Respondent, Patna Medical College Hospital, Patna vide Memo No. 9674 dated 29.10.2021 for Trolley Services to patient of Patna Medical College Hospital, Patna.

d) And for any other relief/relies that your Lordships may deem fit and proper in the interest of justice.”

2. NIT was issued on 29.10.2021 for supply of trolley man and materials to Patna Medical College and Hospital, Patna. Both the petitioner and 4th respondent were successful in the technical bid. In the financial bid/final bid, respondent no.4 has been given preference over the petitioner with reference to eligibility criteria. Hence, the present petition filed by the petitioner insofar as challenging the award of contract in favour of respondent no.4.

3. Learned counsel for the petitioner submitted that official respondents all along indicated three years experience and for the first time, one year experience has been prescribed. The aforementioned contention is not tenable for the reasons



that the petitioner has surrendered his right to the NIT dated 29.10.2021. Thereafter, when he was unsuccessful, he is taking such contention that all along three years experience was used to be condition which has been changed to one year and it is arbitrary. The same cannot be appreciated and such contention is rejected.

4. Learned counsel for the petitioner submitted that in terms of clause nos.13 and 21, experience is required with reference to 1000 bed hospital insofar as supplying the trolley man and other materials. On the other hand, the 4th respondent do not possess such experience and he had experience of providing service to the Darbhanga Medical College Hospital. Darbhanga Medical College Hospital is 1,000 bed hospital. However, the 4th respondent has executed the work only in respect of two departments in Darbhanga Medical College Hospital and he is required to provide 250 trolley man with reference to present NIT dated 29.10.2021. Therefore, the experience gained by the 4th respondent in respect of execution of work in Darbhanga Medical College Hospital is not sufficient. In other words, 4th respondent do not possess the experience as indicated in Clause-13 and 21. Clauses 13 and 21 read as under:-



“13. सभी ट्रॉली आवाज रहित होना चाहिए उस पर 1.5 इंच (डेढ़ इंच) डनलप कुशन तथा साफ बेड सीट रहना चाहिए। डिटैचेबुल टॉप होना चाहिए। बेडशीट के उपर खड़ सीट (Sheet) रहना चाहिए।

21. निविदादाता को ट्रॉली सेवा का कम से कम 1000 (एक हजार) शय्या वाले किसी सरकारी अस्पताल में एक साल तक संतोषजनक कार्य करने का अनुभव प्राप्त होना चाहिए। निविदादाता को कार्य संतोषजनक एवं अनुभव प्रमाण पत्र की अभिप्रमाणित प्रति संलग्न करना होगा जिसमें कार्य के प्रकार का स्पष्ट रूप से उल्लेख होना चाहिए।”

5. Scanning of the aforementioned clauses, it does not specify that experience is with reference to how many departments and how many trolley man etc., it only speaks of supply of trolley man and material to 1000 bed hospital.

6. In the light of these facts and circumstances, the petitioner has not made out a case so as to interfere with the impugned action of the official respondents.

7. Accordingly, the writ petition stands dismissed.

8. At this stage, learned counsel for the respondents pointed out that the petitioner had preferred Special Leave to Appeal (C) No. 13611 of 2023 and it was decided against him. Perusal of Apex Court order dated 28.07.2023, there may be a typographical error insofar as quoting of CWJC No. 2421 of 2022 instead of C.W.J.C. No. 6171 of 2022. On 09.05.2023, both C.W.J.C. No. 2421 of 2022 and C.W.J.C. No. 6171 of 2022



were listed. Thereafter, C.W.J.C. No. 2421 of 2022 was de-linked while disposing C.W.J.C. No. 6171 of 2022 and this is not disputed by the learned counsel for the petitioner.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

Amrendra/-

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