

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3289 of 2022

Ashish Ranjan Son of Sri Krishna Murari Prasad Resident of Village - Tahwal
Bigha, P.O. Sughri, P.S. - Hisua, District - Nawada.

... .. Petitioner/s

Versus

1. Bihar Medical Services and Infrastructure Corporation Limited through its Managing Director, 4th Floor, Bihar State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna-23.
2. The Managing Director, Bihar Medical Services and Infrastructure Corporation Limited, 4th Floor, Bihar State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna-23.
3. The Chief General Manager, Bihar Medical Services and Infrastructure Corporation Limited, 4th Floor, Bihar State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna-23.
4. The General Manager, Bihar Medical Services and Infrastructure Corporation Limited, 4th Floor, Bihar State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna-23.
5. The General Manager (Finance), Bihar Medical Services and Infrastructure Corporation Limited, 4th Floor, Bihar State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna-23.
6. The Dy. General Manager (Project), Bihar Medical Services and Infrastructure Corporation Limited, 4th Floor, Bihar State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna-23.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate Mr. Manish Sahay, Advocate Mr. Anil Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 10-01-2023

Heard Mr. Rajendra Narain, the learned Senior
Advocate for the petitioner and Mr. Vikash Kumar for the



respondent/Bihar Medical Service Infrastructure Corporation Limited.

The grievance of the petitioner is that even though he was declared the lowest bidder and was finally selected by the departmental Financial Tender Committee on 11.08.2021, but till the date of filing of the instant petition and till this date also, the letter of acceptance has not been given to him nor any consequential agreement has been entered into with the petitioner for commencing the work under the Tender.

The counter affidavit however discloses that the respondent/corporation was intimated that another Undertaking of the Government viz. the Bihar State Educational Infrastructure Development Corporation Ltd. had debarred the petitioner for one year for taking part in any Tender by the aforesaid department. This debarment, though was only for the concerned corporation viz. Bihar State Educational Infrastructure Development Corporation Ltd. but according to the Tender papers in the present



instance, such debarment by any Government corporation would render the Tender papers offered by such debarred entity as not acceptable. This has been penned down in Clause 29 of the Notice Inviting Tender (NIT) which was issued on 09.07.2021.

Per force, Clause 30 of the NIT is also required to be taken note of which makes it obligatory on the offerer to disclose any such debarment/blacklisting or recession of an agreement within last one year.

Mr. Narain has very categorically argued that the debarment order by the Bihar State Educational Infrastructure Development Corporation Ltd. was passed on 03.09.2021, which was to operate for one year. Thus the period of debarment ceased on 02.09.2022. The petitioner has also intimated this fact to the respondent/corporation on 04.12.2021. There is no dispute over this fact, as Mr. Vikash Kumar has fairly submitted, that such information of debarment was not hidden by the petitioner. The corporation therefore was to



take the decision when the force of the debarment order had ceased to operate. Otherwise also, the Corporation was required to intimate the offerer/the petitioner that his papers were not being accepted for the reason of the debarment order by another Government company. Till date, such information is only in the contemplation of the respondent/corporation.

We are at a loss to understand as to how an offerer who has been declared L-1 bidder and is expecting an agreement with the respondent/corporation for commencing his work, would come to know about any decision having been taken of no consideration of his tender papers.

In the aforesaid circumstances, we find that such decision is only adhoc/for the purpose i.e. for meeting the arguments of the petitioner in the present writ petition.

This reasoning is further reinforced and buttressed by the argument of Mr. Narain that the schedule/calendar fixed by the department was not



followed as after the determination of the lowest bidder and his selection, necessary consequential action was to be taken within a couple of days. Thus, we find that the respondent/corporation has not taken any decision or else that would have been communicated to the petitioner.

Under the aforesaid circumstances, we deem it appropriate to direct the respondent/corporation to take a decision afresh keeping in account that the petitioner had not hidden any fact with respect to its debarment by a Government company, which period had been spent when the tender papers were offered by him and he was declared to be the lowest bidder, being responsive to all other requirements under the Tender. It is expected that a fresh decision would be taken, taking into account that the debarment of the petitioner for one year by another Government company was not in operation and therefore the petitioner had a clean slate to offer. Let such decision with supporting reasons be taken within a period of three weeks, which shall be intimated to the petitioner forthwith.



The application is disposed of with the afore-
noted direction.

(Ashutosh Kumar, J)

(Satyavrat Verma, J)

kundan

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	13.01.2023
Transmission Date	

