

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3693 of 2023

Vats Infratech Pvt. Ltd. Builder, Contractor and Supplier, Sukanto Palli Gati Bazaar, Ward No. 33, Siliguri, 734007, West Bengal through its Director Sourav @ Shekhar, aged about 30 Years, Son of Rampreet Kunwar, Resident of Village-Majirwakhurd, P.S.-Misir Batraha, District-Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Additional Chief Executive Officer-Cum-Secretary, Bihar Rural Road Development Agency, Patna.
3. The Engineer-In-Chief, Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer, Rural Works Department, Bihar, Patna.
5. The Superintending Engineer, Rural Works Department, Bihar, Patna.
6. The Executive Engineer, Rural Works Department, Work Division, Kishanganj-2.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar, Advocate
For the Respondent/s	:	Mr. Kumar Alok (SC7)
		Mr. Rakesh Kumar, AC to SC-7

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

Date : 21-03-2023

In the instant petition, petitioners has prayed for the following reliefs:-

*“i. For setting aside the decision
of the Technical Bid Committee dated
30.01.2023 relating to Package No. BR
18P 3R 58- MRL 33 Khutamani Path
(Tulsi Bhatta to Jangal Bhatta Malkata)*



Tender ID- 122419, arising out of NIT No. RWD/PMGSY/HQ/ ET/ 2022-23 / 33 wherein the petitioner has been declared ineligible/disqualified in terms of SBD clause 4.2 (i) & 4.7 (1) for the reason the petitioner had filed one writ application bearing CWJC No. 16341/ 2022 but had not disclosed the same in his affidavit relating to pending litigation.

ii. For that the petitioner further prays for setting aside the subsequent decision of the Technical Bid Committee dated 06.02.2023 whereby the respondent authorities without even considering the objection of the petitioner again declared ineligible disqualified and further recommended for re- tendering for reason that only one tenderer remained qualified.

iii. For any other relief/reliefs for which the petitioner may be deemed entitled to.”

1. Petitioner's technical bid was rejected for non-compliance of the 4.2 which reads as under:-

“4.2 All bidders shall include the following information and documents with their bids in Section 3, Qualification Information unless otherwise stated in the Appendix to ITB:



(a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder:

(b) total monetary value of civil construction works performed for each of the last five years;

(c) experience in works of a similar nature and size for each of the last five years, and details of works in progress or contractually committed with certificates from the concerned officer not below the rank of Executive Engineer or equivalent;

(d) evidence of ownership of major items of construction equipment named in Clause 4.4 B (b) (i) of ITB or evidence of arrangement of possessing them on hire/lease/buying as defined therein.

(e) details of the technical personnel proposed to be employed for the Contract having the qualifications defined in Clause 4.4 B(b) (ii) of ITB for the construction.

(f) reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past three years;



(g) evidence of access to line(s) of credit and availability of other financial resources/ facilities (10 percent of the contract value) certified by banker (the certificate being not more than 3 months old.)

(h) authority to seek references from the Bidder's bankers;

(i) information regarding any litigation or arbitration during the last five years in which the Bidder is involved, the parties concerned, the disputed amount, and the matter;

(j) proposals for subcontracting the components of the Works for construction/up-gradation, aggregating to not more than 25 percent of the Contract Price; and subcontracting of part/full routine maintenance of roads after completion of construction work.

(k) the proposed programme of construction and Quality Management Plan proposed for completion of the work as per technical specifications and within the stipulated period of completion.”

(under line supplied)

2. It is undisputed fact that CWJC No. 16341 of 2022 was pending consideration as on 30.01.2023. It is to be noted that last date of submission of application for tender bid was 10.01.2023.



Therefore, one has to draw inference that CWJC No. 16341/2022 litigation was pending consideration insofar as petitioner is concerned as on 10.01.2023. In not revealing or disclosing pending litigation of CWJC No. 16341 of 2022 as on last date of submission of tender application on 10.01.2023. Therefore, we find no infirmity in the impugned action of the concerned respondent in rejecting the petitioner's technical bid.

3. Accordingly, writ petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Daya/
Himanshu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.03.2023
Transmission Date	NA

