

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5582 of 2022

=====

Dhananjay Kumar, Gender – Male, aged about – 44, Son of Santan Sharma,
Resident of Village- Sona, Piprawan, P.S.- Naubatpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Vishweshwariya Bhawan, Bailey Road, Patna.
2. The Engineer-in- Chief, Rural Works Department, Vishweshwariya Bhawan, Bailey Road, Patna.
3. The Technical Bid Evolution Committee, through its Chairman, Chief Engineer-1, Rural Works Department, Patna.
4. The Departmental Tender Committee, Rural Works Department, Bihar, Patna.
5. The Chief Engineer-1, Rural Works Department, Bihar, Patna.
6. The Superintending Engineer, Rural Works Department, Work Circle, Patna.
7. The Executive Engineer, Rural Works Department, Works Division, Paliganj.
8. S.B. Engicon Pvt. Ltd. through its Director Sindhu Nath, Son of Not Known, Address Royal City, West Judges Colony, Saguna, P.S.- Danapur, District- Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Lal Babu Singh, Advocate
For the State	:	Mr. Kumar Alok, SC 7
		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 : 12-04-2023

Heard learned counsels for the respective parties.



2. In the instant petition, petitioner has prayed for the following relief/reliefs:

(i) For quashing of the decision of the respondent Technical Bid Evolution Committee dated 16.12.2021 contained in Memo No. 4327 (Annexure – 2) whereby and where under the petitioner has been declared disqualified in Technical Bid in connection with Package No. MR – N/2021-22/Paliganj/01 for the work of Rectification and 5 years Maintenance Work (Tender ID No. 113871) under Paliganj Works Division.

(ii) For quashing of the further decision of the respondent Technical Bid Evolution Committee dated 12.01.2022 contained in Memo No. 97 (Annexure – 5) whereby the complaint of the petitioner has been rejected and the petitioner has been again declared disqualified and other bidders have been declared qualified including the bidder who has been debarred by Road Construction Department, Bihar.

(iii) For a direction to the respondents to produce the records of subsequent impugned actions in relation to the tender including their decision to award the contract in favour of respondent No. 8 and further be pleased to quash the subsequent decisions including the award of contract in favour of respondent No. 8.

(iv) For a direction to the respondents to declare the petitioner qualified in the Tender.

(v) For appropriate declaration that:-

a) The petitioner is qualified in the Technical Bid as he fulfills all criteria of the Notice Inviting Tender and the petitioner has already provided the consent letters of two personnel having Graduate Degree in Civil Engineering consent letter of one personnel having Diploma in Civil



Engineering and also consent letters of three personnel having Matriculation Degree for Works Supervisor.

b) The decision of the respondent Technical Bid Evolution Committee is discriminatory as the Bidder who is debarred from participating in the tender by Road Construction Department, Bihar for fraudulent practices has been declared qualified and the petitioner who fulfills almost all conditions of the Notice Inviting Tender has been declared disqualified.

c) The decision of the respondent Technical Bid Evolution Committee and subsequent decision to award the contract in favour of respondent No. 8 suffer from the vice of discrimination, arbitrariness, unfairness, unreasonableness and lack impartiality and transparency and thus, the decisions are unsustainable on facts and law.

(vi) For any other relief(s) or consequential relief(s) to which the petitioner may be found entitled to in the facts and circumstances of this case.

3. The petitioner's technical bid was rejected for want of material information in terms of Maintenance Contract Bid Documents, in particularly 4.4 B (b) (ii) and Bid Data Sheet. It is necessary to reproduce Clause 4.4 B (b) (ii) which reads as under:

“4.4 B (b) (ii)

(ii) availability for construction work of technical personnel as stated in the Bid Data Sheet.

4. Similarly, Bid Data Sheet reads as under:

4.4 B (b) (ii) The Bidder must demonstrate (Undertaking/ consent letter Signature of the personnel) that it has the



personnel for the key positions that meet the following requirements:

Position	No.	Educational Qualification	Total Work Experience in Road Works (years)
Road Manager	1	Graduate in Civil Engg.	2
Maintenance Engineer	3	Diploma in Civil Engg.	3
Works Supervisor	5	Matric or equivalent	3

5. Admittedly the petitioner, as against Maintenance Engineer, was required to furnish three names. Such of those Engineers with qualification of Diploma in Civil Engineering. On the other hand, he had furnished only one name. On this issue, the petitioner’s technical bid was rejected. We find that there is no infirmity.

6. At this stage, learned counsel for the petitioner submitted that 8th respondent – S.B. Engicon Pvt. Ltd. was debarred by the Road Construction Department. Such contention has been countered by the respondent Nos. 1 to 7 in their counter affidavit while enclosing internal communication of the Road Construction Department to the extent that 8th respondent was never debarred. In the light of these facts and circumstances, the petitioner has not made out a case.



7. Accordingly, writ petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.04.2023
Transmission Date	NA

