

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4617 of 2023

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Samanta Security and Intelligence Services Pvt. Ltd., Corporate Office at 205,
2nd Floor, Shashi Complex, Exhibition Road, Patna-800001 through its
Director, Uday Aditya, aged About 29 Years, Son of Tarkeshwar Nath Singh,
Resident of -Singh Sadan Green Park, Road No.-7, East of Mangal Chowk
Khemnichak, Kankarbagh, P.S.-Kankarbagh, District-Patna-2

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Government of Bihar, Patna.
2. The District Magistrate-Cum-Chairman, District Health Center, Bhojpur
3. The District Development Commissioner, Bhojpur.
4. The Civil Surgeon-Cum-Member Secretary, District Health Society, Bhojpur.
5. The District Programm Manager, District Health Center, Bhojpur.
6. The District Account Officer, Bhojpur.
7. Elite Falcons Private Limited, 101, Sri Ram Tower, PCL Colony, RBI Flat Colony, Kankarbagh, Patna, Bihar 800020

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
For the Respondent/s : Mr. S.D. Yadav (AAG 9)
Mr. Anil Kumar Verma, AC to AAG-9
Respondent no.7 : Mr. Sanjeev Kumar, Advocate
Mr. Pravashankar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT



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

Date : 13-07-2023

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

“i) For issuance of direction to the respondent authorities particularly to District Magistrate -cum- Chairman, District Health Center, Bhojpur, and The Civil Surgeon -cum-Member Secretary, District Health Society, Bhojpur to provide and Produce a copy of the Tender Bid Committee dated 17.03.2020 as well as, a copy of Financial Bid dated 17.03.2023 with respect to Tender Notice dated 04-02-2023 for hiring of private security guards for the Health Center at the Sadar Hospital, Sub Divisional Hospital, Referral Hospital, all Community. Health Center, Primary Health Center etc. as the Technical Bid Committee in its meeting dated 17-03-2023 disqualified the petitioner illegally and without providing a copy of the technical Bid and without providing opportunity of submitting objection opened financial bid and till date the said documents have not been uploaded on the official website i.e. <https://bhojpur.nin.in>.

ii. The petitioner further prays that after production of the decision of the Technical Bid Committee dated 17-03-2023 Bid with respect to aforementioned work, same may be quashed to the extent it relates to the petitioner and direction be issued to provide opportunity of submitting objection and to proceed in accordance with law maintaining fairness.

Iii. For that the petitioner further prays that after



production of the decision of the Financial Bid dated 17-03-2023 Bid with respect to aforementioned work, same may be quashed for reason that the illegality lies at the rood i.e. at the time of consideration of Technical Bid and therefore, all subsequent action will be a nullity in the eye of law in view of Judgment reported in (2011) 14 SCC. 770 Davindra Pal Singh Bhullar & Others Versus The State of Punjab.

iv. For any other relief for which the petitioner may be deemed entitled to.”

2. Pursuant to the NIT dated 04.02.2023 in respect of hiring of private security guards for the health centre at the Sadar Hospital, Sub Divisional Hospital, Referral Hospital, all community Health Centre, Primary Health Centre etc., Technical Bid Committee evaluated the technical issues of the bidders on 17.03.2023 and on the same day, financial bid was also opened. Normally, as and when technical evaluation is undertaken by the Committee, an opportunity is given to such of those persons/firms before rejection of their technical bid. Thereafter, further proceedings would be undertaken by the competent authority reiterating the stand taken by the Technical Evaluation Committee of altering the decision. Thereafter, they would proceed with the financial bid. Such procedure has been sidetracked in the present case. In other words, the petitioner and other similarly situated persons,



whose technical bid has been rejected, have not been provided breathing time of even 24 hours in filing objections/suggestions. In the light of the fact that technical bid was evaluated and financial bid was opened on 17.03.2023.

3. Learned counsel for the contesting respondent-State has not disputed the above factual aspects of the matter. However, it is submitted that the petitioner was well aware of the procedure in technical evaluation bid and financial bid.

4. Learned counsel for the respondent no.7 resisted the contention of the petitioner and submitted that petitioner is not entitled to have any relief in the present petition for the reasons that he do not fulfill certain criteria for the purpose of consideration of his bid. Even, if the matter is remanded to the concerned authority to proceed from the stage of opening of a technical bid, the petitioner is not in a position to apprise the concerned authority to the effect that he is a fully qualified to participate in the bid.

5. Heard learned counsel for the respective parties. Undisputed facts are that official respondents issued a tender notice on 04.02.2023 for hiring private security guard for the health centre at the Sadar Hospital, Sub Divisional Hospital,



Referral Hospital, all community Health Centre, Primary Health Centre etc. The petitioner and 7th respondents were stated to be the bidders. On 17.03.2023, official respondents proceeded to open simultaneously technical as well as financial bid without provided breathing time to such of those persons whose bid was technicality rejected.

6. Normal course of tender process is informing such persons/firm relating to rejection of technical bid and providing an opportunity to file objections or suggestions and thereafter opening of financial bid was required to be proceeded. In the present case, as is evident from the record. the petitioner and similarly situated persons, if any, were not provided breathing time of filing objection to the technical bid dated 17.03.2023. On this short ground, the petitioner has made out a case.

7. The contention of respondent no.7, that the petitioner cannot improve his grievance even though if he is provided an opportunity, the same cannot be examined in the present case for the reasons that the petitioner is required to submit his objections in a technical bid and it is required to be examined by the official respondents.

8. In the light of these facts and circumstances, the



petitioner has made out a case. Hence, the proceedings of financial bid dated 17.03.2023 stands set aside further Proceedings arising out of subject NIT, reserving liberty to the petitioner to file his objections/suggestions to his rejection of technical bid within a period of one week from today. Thereafter, the concerned official respondent is hereby directed to examine the grievances of the petitioner and proceed to finalise the NIT dated 04.02.2023, in accordance with law.

9. The present writ petition stands allowed.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

Amrendra/ashish
kr/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	18.07.2023.
Transmission Date	

