

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5863 of 2023

M/s. S.N. Sons a Partnership firm incorporated under the provisions of the Partnership Act, 1932 having its registered office at Jeevan Sadan Road, Gulzarbagh, Ward No. 20, Madhepura-852113 (Bihar) through one of its Partner Mr. Rohit Dahlan, Gender-Male, aged about 27 years, son of Shri Shambhu Kumar Dahlan, R/o Dahlan House, Dahlan Chowk, Saharsa, Bihar-852201.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Disaster Management Department, Block-C, Sardar Patel Bhawan, Jawaharlal Nehru Marg (Bailey Road), Patna-800023.
2. The Bihar State Disaster Management Authority through its Vice Chairman, 2nd Floor, Pant Bhawan, Bailey Road, Patna, Bihar-800001.
3. The Additional Collector, District Disaster Management Wing, Hindi Bhawan, Chajjubagh, Collectorate Campus, Patna through District Magistrate, Patna.
4. The District Purchase Committee, Hindi Bhawan, Chajjubagh, Collectorate Campus, Patna through District Magistrate, Patna.
5. The District Magistrate, Patna, Hindi Bhawan, Chajjubagh, Collectorate Campus, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhishek Singh, Advocate
For the Respondent/s : Mr. P.K. Shahi (AG)

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

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

2 24-04-2023 In the instant petition, petitioner has prayed for the following relief(s):-

i. For issuance of writ in the nature of “Quo Warranto” against the concerned respondent against the Order No.-2216, 2217, 2218, 2219, 2220 all dated 01-07-2022 & Order No.- 3512 dated 05-12-2022 issued by Additional Collector, District Disaster Management Wing, Patna whereby and where under



the order has to other non-successful bidders despite Petitioner having been declared L-1 being the lowest bidder;

ii. For issuance of writ in the nature of “Mandamus” against the concerned respondent as other bidders were also given purchase orders under the tender no. 02/2022-23 which is in complete breach of the conditions of the said tender, more particularly Clause 6 and clause 9 of the said tender and previous practice of the Department.

iii. For issuance of writ in the nature of “Mandamus” against the concerned respondent for non-compliance of the “The Bihar finance (Amendment) Rules, 2005”-Rule 131R particularly clause (xii) and (xiv) of the said Rules framed by the State Government.

iv. For issuance of writ in the nature of “Mandamus” against the concerned respondent to compensate in accordance with section 73 of the Indian Contract Act, 1872.

v. For issuance of writ in the nature of “Mandamus” against the concerned respondent for non-compliance of the terms and conditions of the agreement dated 01.03.2022 particularly clause 8 of the said agreement.

vi. To hold and declare that the petitioner is entitled to damages for its loss of profits due to unfair actions of the concerned authorities of the District Disaster Management, Patna in terms of judgment of Supreme Court in the case of Dwaraka Das Vs State of M.P. and another, (1993) 3 SCC 500.

vii. For issuance of appropriate writ in the nature of mandamus commanding the Respondent No.1 to pay damages for the loss of profits to the petitioner in terms of judgment of Supreme Court in the case of Dwaraka Das Vs State of M.P. and another, (1993) 3 SCC 500 and to treat the petitioner equitably with similarly situated other L-1 Bidders in the past who were awarded the contract in entirety.

Viii. The Hon’ble Court may award the cost of litigation and suitable compensation to the petitioner for the loss and damages on account of unfair, illegal and arbitrary action of respondents.

ix. For any other relief or reliefs for which the petitioner be found entitled in the eye of law.



2. Writ of Quo Warranto petition is not maintainable on two grounds, namely, 3rd respondent has not been impleaded by name and further the admitted fact is that the 3rd respondent is competent authority to initiate NIT No. 02/2022-23 (Annexure-P/1).

3. Accordingly, the writ petition stands dismissed reserving liberty to the petitioner to file a fresh writ petition.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

DKS/
Balmukund/-

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