

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6993 of 2023**

M/S Radhe Associates, a partnership firm Registered under the India Partnership Act, having its office at 137 Kens Village Complex, 1st Floor, Ramosana Coss Road, Mehsana Gujrat 384002, through its authorised signatory Ankit Kumar, aged about 36 years (Male), Son of Umesh Kumar Singh Resident of A/4, Abhiyanta Nagar Sector2, Ashianagar, P.S. Rajiv Nagar, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, 1st Floor, Vikas Bhawan, New Secretariat, Patna 800015
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, 1st Floor, Vikas Bhawan, New Secretariat, Patna 800015
3. Bihar Urban Infrastructure Development Corporation Limited, through its Managing Director, Near Rajapur Pul, West Boring Canal Road, Patna 800001.
4. The Managing Director, Bihar Urban Infrastructure Development Corporation Limited, Near Rajapur Pul, West Boring Canal Road, Patna 800001.
5. The General Manager, Bihar Urban Infrastructure Development Corporation Limited, Near Rajapur Pul, West Boring Canal Road, Patna 800001.
6. The Chief Engineer, Design, Planning and Monitoring, Bihar Urban Infrastructure Development Corporation Limited, Near Rajapur Pul, West Boring Canal Road, Patna 800001.

... .. Respondent/s

**Appearance :**

|                      |   |                                                                                                                                                                    |
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| For the Petitioner/s | : | Mr. Y.V. Giri, Sr. Advocate<br>Mr. Suraj Samdarshi, Advocate<br>Mr. Avinash Shekhar, Advocate<br>Mr. Vijay Shanker Tiwary, Advocate<br>Mr. Piyush Ranjan, Advocate |
| For the Respondent/s | : | Mr. Rabindra Kumar Pridarshi, Advocate                                                                                                                             |

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

**Date : 14-07-2023**



Heard learned counsels for the respective parties.

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

“i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing the office order contained in memo no. 1173 dated 15.04.2023 issued by Respondent Managing Director, Bihar Urban Infrastructure Development Corporation Limited (hereinafter referred to as “BUIDCO”), whereby it has been intimated that the board of directors has decided to retender the work of construction of Comprehensive Storm water Drainage System in Patna Nagar Nigam, Khagaul, Danapur, Phulwarisharif and Adjoining Area of Catchment – 1 on account of single tender and the rate quoted being above BOQ.

ii) To issue an appropriate writ, order or direction in the nature of certiorari for quashing the consequential tender cancellation notice dated 15.04.2023 issued by Respondent Chief General Manager, BUIDCO, whereby and whereunder tender bearing NIT No. BUIDCO/Yo-2473/22 (Part – 2) – 51 dated 14.12.2022 for construction of Comprehensive Storm water Drainage System in Patna Nagar Nigam, Khagaul, Danapur, Phulwarisharif and Adjoining Area of Catchment – 1 has been cancelled with immediate effect.

iii) To issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondent BUIDCO to accept the petitioner’s bid in relation to tender bearing NIT No. BUIDCO/Yo-2473/22 (Part – 2) – 51 dated 14.12.2022 for construction of Comprehensive Storm water Drainage System in Patna Nagar Nigam, Khagaul, Danapur, Phulwarisharif and



Adjoining Area of Catchment – 1 and award the work to the petitioner.

iv) This Hon'ble Court may adjudicate and hold that the action of Respondent BUIDCO in cancelling tender bearing NIT No. BUIDCO/Yo-2473/22 (Part – 2) – 51 dated 14.12.2022 purportedly on the ground that there was only single bidder and that the rate quoted was above BOQ is bad in the eyes of law.

v) This Hon'ble Court may further adjudicate and hold that there is nothing in law which prevents the Respondent BUIDCO from accepting the bid of single technically qualified bid of the petitioner considering the fact that the rate quoted by the petitioner was lower than the rate at which the Respondent BUIDCO had awarded similar construction work earlier.

vi) This Hon'ble Court may further adjudicate and hold that without any cogent, tangible and valid finding that the rate quoted by the petitioner was not competitive on account of lack of competition, petitioner's bid could not have been cancelled.

vii) This Hon'ble Court may further adjudicate and hold that since the Tender no. NIT No. BUIDCO/Yo-2473/22 (Part – 2) – 51 dated 14.12.2022 was satisfactorily advertised for the third time in several newspaper across the country in all major cities and sufficient time was given for submission of bids and the qualification criteria therein were not unduly restrictive and estimated price was reasonable in comparison to market values, it cannot be said that there was lack of competition during the tender process and therefore Petitioner's bid could not have been cancelled on the pretext that it was a single bid and the rate was above BOQ.



viii) This Hon'ble Court may further adjudicate and hold that repeatedly cancelling a tender pertaining to construction of urban infrastructure of seminal importance on the pretext that the tender elicited only a single bidder is completely unjustified and arbitrary in nature considering the fact that a) the process of retender involves unreasonable costs; b) re-tender leads to the delay in execution of development related work; c) re-tender may elicit higher price bid on account of escalation in costs leading to loss of public exchequer.

ix) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submitted that on one or the other administrative issue/s respondents have floated tender on three occasions. In the third occasion, the petitioner is stated to have quoted rate above BOQ, therefore, respondents have not proceeded to award contract to the petitioner. In this regard, there was a communication from the respondents as to whether the petitioner is willing to reduce the rate quoted by him or not? In this regard, it is stated that there was negotiation and it has not attained finality.

4. Today, learned counsel for the petitioner, on instruction, submitted that the petitioner is prepared to execute the work at the rate quoted by the official respondent with reference to BOQ. In this regard, the official respondent/competent authority is



hereby directed to have one more negotiation meeting with the petitioner and if it is feasible to the respondent/competent authority to proceed to award work in favour of the petitioner.

5. The above exercise shall be completed within a period of one month from the date of receipt of copy of this order.

6. With the above observation, writ petition stands disposed off.

**(P. B. Bajanthri, J)**

**(Jitendra Kumar, J)**

GAURAV S./-

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|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 18.07.2023 |
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