

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7143 of 2023

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M/S Ghanaram Infra Engineers Pvt. Ltd. Corp. Office at 650, CIC Campus, Jhokan Bagh, Jhansi, P.S.- Jhansi Town, District- Jhansi (U.P.), through its authorized representative Sri Veer Singh Jakgar, aged about 49, Male, Son of Shri Rishall Singh Jakhar, Resident of House No. 35, NH-2, Road Miles Stone 70, Near Delhi Public School, Mansha Green, Aurangabad, Hodal, Palwal, Hodal, Haryana- 121106

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Water Resource Department, Government of Bihar, Patna.
2. The Secretary, Water Resource Department, Government of Bihar, Patna.
3. The Engineer-in-Chief, Water Resource Department, Government of Bihar, Patna.
4. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur.
5. The Superintending Engineer, Flood Control, Planning and Monitoring Circle, Water Resource Department, Bihar, Patna.
6. The Superintending Engineer, Water Resource Department, Flood Control Circle, Darbhanga.
7. The Executive Engineer, Flood Control Division-II, Water Resource Department, Jhanjharpur, District- Madhubani.
8. M/S Mateshwari Construction, Mamka Niwash, New Area, Chitour Nagar, Aurangabad Town, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lalit Kishore, Sr. Advocate Dr. Ranjeet Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, AC to AG

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

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

Date : 10-05-2023

Heard learned counsels for the respective parties.



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

“i. For issuance of direction to the respondent authorities to consider petitioner’s application dated 02.05.2023 and cancel the decision of Lottery held on 02.05.2023 relating to NIT No. 01-SBD/2022-23 as the respondent authorities did not maintain fairness and impartiality in the process of Lottery and illegally declared the private respondent successful L1.

The authorities neither described the process / manner / Rule of Lottery before commencement of Lottery not they maintained fairness i.e. the preparation of Chit, putting the chit in two boxes and picking of chit everything was carried out by the authorities without disclosing their identity and further the chit from the second box was picked up by the same person who prepared and putted in the chit in the box.

ii. The petitioner further prays that after cancelling the decision of the Lottery in the aforementioned NIT the respondents authorities be directed to hold a fresh Lottery maintaining all the fairness and impartiality i.e. by first describing the process/manner/Rule of lottery and then by preparing chit by one person, putting in a box by another person and picking the chit by a third person before both the parties and further the entire process of Lottery be recorded.

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



3. Pursuant to NIT, technical bid and financial bid were stated to have been opened on 27.04.2023 among seven bidders. Petitioner - *M/S Ghanaram Infra Engineers Pvt. Ltd. Corp.* and 8th respondent – *M/s Mateshwari Construction* seems to be successful bidders and their rates were identical, therefore, the concerned authority stated to have proceeded to invoke procedure of lottery system. Such a lottery system was conducted on 02.05.2023. The petitioner alleged that the lottery system was manipulated by the concerned authority. In this regard representation is stated to have been submitted.

4. It is further argued that the concerned authority have undertaken the video recording of the lottery system. Such pleadings are not forthcoming. The overall issue involved in the present petition is relating to disputed issue, therefore, present writ petition is not maintainable in the light of Apex Court decision in the case of *Subhash Jain vs. Rajeshwari Suman and Ors.* reported in **2021 SCC Online 562** and *Union of India and Ors. vs. Puna Hinda* reported in **(2021) 10 SCC 690**. However, since certain allegations have been levelled against the respondent authorities to the extent that they are alleged to have manipulated the lottery system on 02.05.2023 in favour of a particular person. These are all the matters which are required to be examined by the



concerned authorities. In this regard if a representation is submitted, the concerned authority shall take note of and proceed to pass orders on the petitioner’s representation at the earliest while communicating the same to the petitioner.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.05.2023
Transmission Date	NA

