

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12833 of 2016

M/s Supreme Enterprises, a Company having its registered Office at East Ashok Nagar, Road No. 14(B), Kankarbagh, Patna, Bihar through its Authorized Representative Mr. Harsh Vardhan Singh.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, New Secretariat, Patna.
2. District Magistrate, Bihar Sharif, at Nalanda.
3. Municipal Commissioner cum Chief Executive Officer, Bihar Sharif Municipal Corporation, Bihar Sharif at Nalanda.
4. Additional Commissioner, Bihar Sharif Municipal Corporation, Bihar Sharif at Nalanda.
5. Mayor, Bihar Sharif Municipal Corporation, Bihar Sharif at Nalanda.
6. M/S Kunal Automobiles Private Limited having Registered office at- Shyam Bazar Road, Dumka, Jharkhand.
7. M/S Maurya Motors Limited, having Registered Office at- C-1 Industrial Area, Patliputra, P.S.- Patliputra, Patna 8000013.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anurag Saurav, Advocate
For the Respondent/s	:	Mr. Abbas Haider, SC-6
For the Corporation	:	Mr. Gyan Prakash Ojha, GA-7

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

HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

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

4 11-05-2023 In the instant petition, petitioner has prayed for the following relief(s):-

“1. a) For directing the respondent authorities specially respondent no. 3, 4 and 5 to declare the decision taken by Respondent no. 3, 4 and 5 while assessing and opening of technical bid on 30.04.2016, in lieu of notice inviting re-tender no. 90/15-16, as null and void, whereby and where under Respondent no.3 has declared respondent no. 6 along with petitioner as "technically qualified bidder", without considering the facts that Respondent no.6 Directors were common in an earlier technically disqualified bidder i.e. Respondent no. 7 and Respondent no.6 is an



Associate Company of respondent no.7 and there were a conflict of Interest and the same was against the provisions of Standard Bid Document and Respondent no. 7 was acting as cartel to get the Respondent no.6 successful in the tender process.

b) For quashing of the work order; issued by Respondent no. 3 i.e. Municipal Commissioner, Bihar sharif Municipal Corporation, in favour of Respondent no.6, in spite of the fact that Respondent no.6 was supposed to be technically disqualified on the ground that Respondent no. 6 and 7 were different company having common Directors and share holders and both of them participated in the tender process which was against the norms of the tender; and also against the provisions of Standard Bidding Documents of Urban Development & Housing Department Bihar; and without considering the objection raised by the petitioner; Respondent no.3 only with intention to declare Respondent no. 6 as successful bidder; not only qualified Respondent no.6 during technical evaluation but also declare Respondent no.6 as successful bidder.

c) For issuance of writ in the nature of mandamus restraining the Respondent no.3 to 5 to execute the work and supply the materials as per the work order issued in Re Invited Tender bearing Tender No. 90/15-16.

d) For issuance of any other relief or reliefs”

2. On 06.10.2016, this Court passed the following

order:-

“It is submitted by learned counsel for the petitioner that the qualifying bidder, respondent No.6, as also another bidder, respondent No.7 are closely related and one Mr. Mohan Himatsingka is the controlling shareholder of both the companies. It is further submitted that two Directors are common in both the companies and thus respondent No.6 becomes ineligible in terms of Clause 3.2(a)(d) of the ITB to the standard bidding document.



Mr. Sanjeev Kumar, Advocate submits that he will be filing Vakalatnama for respondent No.6 in the course of the day.

Put up on 20th October, 2016 to enable learned counsels for the Bihar Sharif Municipal Corporation and for the respondent No.6 to file their respective counter affidavits in the matter.

In the meantime, the award of contract given to respondent No.6 shall remain stayed.”

3. During pendency of the present petition, the respondent – corporation proceeded to issue a fresh tender while awarding contract in favour of the respondent No. 6 which is a subject matter of C.W.J.C. No. 18944 of 2016.

4. In the later writ petition, there is no interim order. Therefore, one has to draw inference that 6th respondent has already executed supply of machineries to the corporation, so nothing remains in this petition.

5. In fact, the petitioner had a cause of action to file contempt petition against the corporation with reference to order dated 06.10.2016 and the same has not been resorted to by the petitioner.

6. Accordingly, the present petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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