

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11175 of 2022

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M/s Asian Construction Vishwanath Nagar, Begusarai, Bihar 851101 through its partner Bipin Kumar Singh (male), aged about - 53 years son of Late Ram Pratap Singh, resident of Ward No. 20, Cheriya Bariyarpur, P.O. Sripur, P.S. Cheriya Bariyarpur, District - Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Director, Municipal Administration, Urban Development and Housing Department, Government of Bihar, Patna.
4. Bakhri Nagar Parishad, P.O. and P.S. Bakhri, District - Begusarai through the Administrator.
5. The Administrator, Bakhri Nagar Parishad, P.O. and P.S. Bakhri, District - Begusarai.
6. The Executive Officer, Bakhri Nagar Parishad, P.O. and P.S. Bakhri, District - Begusarai.
7. Pawan Kumar Sharma son of not known to the petitioner, through the Executive Officer, Bakhri Nagar Parishad, P.O. and P.S. Bakhri, District - Begusarai.
8. Pinku Kumar son of not known to the petitioner, through the Executive Officer, Bakhri Nagar Parishad, P.O. and P.S. Bakhri, District - Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.B.K. Mangalam, Advocate
For the State	:	Mr. Abbas Haider, SC 6
For Resp. Nagar Parishad	:	Mr. Sumit Kumar Jha, Advocate
For Respondent No. 7	:	Mr. Om Prakash Maharaj, Advocate
For Respondent No. 8	:	Mr. Krishna Murari, Advocate

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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 : 27-04-2023

Heard learned counsels for the respective parties.



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

“(I) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent no. 6, the Executive Officer, Nagar Parishad to produce on record the work order issued by him in favour of Respondent nos. 7 and 8 for undertaking the contract of Solid Waste Management in Bakhri Nagar Parishad in pursuance of Short Notice Inviting Tender No.4/2021-22 and on production the same may be quashed by issuance of an appropriate writ in the nature of CERTIORARI on the ground that some conditions for award of tender were arbitrarily fixed by the Respondent nos. 7 and 8 and even though they are not qualified, yet contract has been awarded to them.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the Short Notice Inviting Tender No.04/2021/2021-22 (E-PROC) published under the authority of Respondent no. 6 through his memo no. 391 dated 30.03.2022 as also the Corrigendum to the said Short Tender Notice issued by the Respondent no. 6 and contained in his letter no. 439 dated 13.04.2022, whereby and where under tender was invited from the eligible tenderers under Solid Waste Management Rules, 2016 for collection of door to door sold waster and for drainage clearance work (with extended area) for the financial year 2022-23 on the ground that the conditions for eligibility for submission of technical tender has been made so stringent to restrict the entry of bidders which was not there in the notice



inviting tender for the financial year 2021-22 for the purposes of awarding of same work.

(III) For a declaration that the eligibility conditions contemplated under paragraph no. 13 B(iv) and 13B (vi) of the tender documents are totally illegal and unreasonable for the reason that is for the purposes of solid waste management, there are other organizations also which appoint contractors for solid waste management of Organization/Institution. The experience of solid waste management under a municipality as contemplated under clause 13B (iv) of the tender notice has been deliberately inserted to avoid participation of other tenders, who might have experience of solid waste management of more than five years but of a different organization.

(IV) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. The petitioner has not apprised this Court as to what efforts he has made to obtain work order and failed to get such work order so as to seek a direction from this Court to get work order which are in favour of respondent Nos. 7 and 8 and to set aside the same.

4. That apart the tender is for a period of 11 months. In the absence of interim order, in the present petition, the work order has been already executed by respondent Nos. 7 and 8 and it has



attained finality, therefore, the present petition does not survive for consideration.

5. Accordingly, writ petition stands dismissed as infructuous.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2023
Transmission Date	NAFR

