

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10126 of 2023

=====

Rohan Construction Pvt. Ltd. having its Registered Office at Parewa Air Port Road, Ward No. 1, P.O. Raxaul, P.S. Raxaul, District East Champaran, Bihar, through its Managing Director, Rajnish Tripathy @ Rajnish Kumar Tripathy, aged about 47 years, Male, son of Sri Kameshwar Kant Tripathy, Resident of Parewa Air Port Road, ward NO. 1, P.O. Raxaul, P.s. Raxaul, District East Champaran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Engineer in Chief, Rural Works Department, Government of Bihar, Patna.
3. The Chief Engineer, Rural Works Department, Government of Bihar, Patna.
4. The Superintending Engineer, Rural Works Department, Works Circle, Kishanganj, District Kishanganj, Bihar.
5. The Executive Engineer, Rural Works Department, Works Division, Kishanganj-2 District Kishanganj, Bihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Prabhat Ranjan, Advocate
For the Respondent/s : Mr.Ajay Behari Sinha (Ga8)
Ms.Seema Ghayala, AC to GA8

=====

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

Date : 24-07-2023

Re: I.A. No. 01 of 2023

Heard I.A. No. 01 of 2023 for amendment in prayer/relief portion.

2. For the reasons stated in the application and affidavit,

I.A. No. 01 of 2023 stands allowed.



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

“That this is an application on behalf of the petitioner above named seeking issuance of appropriate writ, rule or direction upon the Respondents for finalization of the Tender process followed by issuance of Letter of Award and Execution of the Agreement in connection with the construction work of Masjid Garh Pokhar to Kutti Gola via Charaiya Road advertized by Notice Inviting Re-Tender No. RWD/PMGSY/HQ/ET/22-23/38 dated 27.12.2022 in Letter No. 3548 for which financial Bid has already been opened on 15.02.2023.

(I-ii) That this writ application is also for quashing of the consequential Order/Decision bearing Memo No. BRDA (HQ-PMGSY-219/1846 dated 14.07.2023) in so far as it relates to the petitioner at Serial No. 2 by which the Notice Inviting Tender No. RWD/PMGSY/HQ/ET/22-23/34RWD 22-23 has been cancelled without assigning any reasons purportedly on administrative grounds;

(I-iii) For issuance of direction to the Respondent Authorities to execute the agreement with the petitioner with respect to Short Notice Inviting Tender No. RWD/PMGSY/HQ/ET/22-23/38 RWD 22-23 for which the financial bid has already been opened and the petitioner has been declared as lowest bidder i.e., L-1.”



4. Learned counsel for the petitioner submitted that abruptly a Corrigendum has been issued for cancellation of tender. It is necessary to reproduce Annexure - 5 to the Interlocutory Application dated 14.07.2023 which reads as under:

Annexure-5 *17. 24*

GOVT. OF BIHAR
Rural Works Department

CORRIGENDUM FOR CANCELLATION OF TENDER

The tender inviting bids for works of 'PMGSY-III for construction of roads and bridges including maintenance for five years after construction' vide following Tender Notice Nos:-

1. Notice Inviting Tender (No.-RWD/PMGSY/HQ/ET/22-23/31) PR. No. 11499 (RWD) 2022-23
2. Notice Inviting Tender (No.-RWD/PMGSY/HQ/ET/22-23/34) PR. No. 11623 (RWD) 2022-23
3. Notice Inviting Tender (No.-RWD/PMGSY/HQ/ET/22-23/35) PR. No. 12253 (RWD) 2022-23
4. Short Notice Inviting Re-tender (No.-RWD/PMGSY/HQ/ET/22-23/36) PR. No. 012070 (RWD) 2022-23
5. Short Notice Inviting Re-tender (No.-RWD/PMGSY/HQ/ET/22-23/37) PR. No. 12322 (RWD) 2022-23
6. Short Notice Inviting Re-tender (No.-RWD/PMGSY/HQ/ET/22-23/38) PR. No. 013059 (RWD) 2022-23
7. Short Notice Inviting Tender (No.-RWD/PMGSY/HQ/ET/22-23/39) PR. No. 013482 (RWD) 2022-23
8. Short Notice Inviting Re-tender (No.-RWD/PMGSY/HQ/ET/22-23/40) PR. No. 013484 (RWD) 2022-23
9. Short Notice Inviting Re-tender (No.-RWD/PMGSY/HQ/ET/22-23/41) PR. No. 014004 (RWD) 2022-23
10. Short Notice Inviting Re-tender (No.-RWD/PMGSY/HQ/ET/22-23/42) PR. No. 014076 (RWD) 2022-23
11. Short Notice Inviting Tender (No.-RWD/PMGSY/HQ/ET/22-23/43) PR. No. 014052 (RWD) 2022-23
12. Short Notice Inviting Re-tender (No.-RWD/PMGSY/HQ/ET/22-23/44) PR. No. 014633 (RWD) 2022-23
13. Short Notice Inviting Tender (No.-RWD/PMGSY/HQ/ET/22-23/45) PR. No. 014637 (RWD) 2022-23
14. Notice Inviting Tender (No.-RWD/PMGSY/HQ/ET/22-23/46) PR. No. 015372 (RWD) 2022-23
15. Short Notice Inviting Tender (No.-RWD/PMGSY/HQ/ET/22-23/47) PR. No. 015371 (RWD) 2022-23
16. Short Notice Inviting Re-tender (No.-RWD/PMGSY/HQ/ET/22-23/48) PR. No. 015377 (RWD) 2022-23

are hereby cancelled due to administrative reasons.

(Signature)
Engineer-in-charge
Rural Works Department,
Bihar, Patna.

Memo. No. BRRDA(JJC)-PMGSY-21/2021 - 1346 Pwd. Dated: 14/07/2023

Copy for kind information to:

1. Principal Secretary, Road Construction Departments,
2. Engineer in Chief, Road Construction Departments,
3. All Chief Engineers, Rural Works Department,
4. Managing Director, Bihar Rajya Pal Nirman Nigam, 7 Santar Patel Marg, Patna-15,
5. Superintending Engineer, Central Public Works Department, Karpuri Thakur Sadan, Complex, Ashwini-Digha Road, Rajeev Nagar, Patna-800025. Central Office
6. All Divisional Commissioners, Bihar,
7. All District Magistrates, Bihar,
8. All Zilla Parishads, Bihar,
9. All Superintending Engineer, RWD, Works Circle,
10. All Executive Engineer, RWD, Works Division,
11. Recording Cell,
12. Account Section, BRRDA Bhawan, Patna.

(Signature)
Engineer-in-charge
Rural Works Department
Bihar, Patna

5. Perusal of the contents of the Annexure - 5 dated 14.07.2023, no reasons have been specified as to why tender was



cancelled. On the other hand, at item number 16 it has been stated that *‘are hereby cancelled due to administrative reasons’*.

6. Merely mentioning *‘due to administrative reasons’* is not sufficient and it is only conclusive and it is not supported by actual reasons, therefore, there is total non-application of mind in issuing Corrigendum for cancellation of tender dated 14.07.2023 *vide* Annexure - 5 to the Interlocutory Application. The same is set aside and the matter is remanded to the Engineer-in-Chief, Rural Works Department, Bihar, Patna to proceed with the fresh detailed reasoned/speaking order to be passed for cancellation of tender, if it is warranted. The above exercise shall be completed within a period of one month from the date of receipt of copy of this order.

7. With the above observations, writ petition stands allowed.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

abhishekk/-

AFR/NAFR	
CAV DATE	
Uploading Date	28.07.2023
Transmission Date	

