

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10277 of 2023

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M/s Kamal Traders through its proprietor Mr. Shwet Kamal, Aged about 39 Years, (Male), Son of Sri Ram Nandan Chaudhary, Resident of Village and P.O - Singhia, Makandpur via Naugachhia, P.S. - Gopalpur, District - Bhagalpur - 853204.

... .. Petitioner/s

Versus

1. Nagar Nigam, Bhagalpur through its Municipal Commissioner, Bhagalpur - 812001.
2. The Municipal Commissioner, Bhagalpur Nagar Nigam, Bhagalpur - 812001.
3. The Superintending Engineer, Urban Development Circle-cum-Chairman of Tender Committee, Urban Development and Housing Department, Bhagalpur - 812001.
4. The Executive Engineer, Urban Development Division - cum- Member of Tender Committee, Urban Development and Housing Department, Bhagalpur Nagar Nigam, Region, Bhagalpur - 812001.
5. The Assistant Engineer, Urban Development Division- cum-Member of Tender Committee, Urban Development and Housing Department, Bhagalpur - 812001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manish Sahay, Advocate
For the Respondent/s	:	Mr. Subhash Prasad Singh (GA 3)
For Nagar Nigam	:	Mr. Manish Kumar, 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 : 18-09-2023

In the instant petition, petitioner has prayed for the following reliefs:

"(i) For quashing of Letter No.965 dated 26.06.2023, issued under the signature of Municipal Commissioner, Bhagalpur, as contained in Annexure-P-10,



whereby and where under the said authority has, without assigning any reason, and without compliance of principle of natural justice, cancel the tender of Group No.20 relates to NIT No.03/2021-22, PR No.09071 (NINi) 2021-22, in which the petitioner has declared lowest bidder (L-1).

(ii). For further quashing of Short Term Notice for inviting Tender No.03/2023-24, issued on 27.06.2023 under signature of the Municipal Commissioner, Bhagalpur Municipal Corporation, as contained in Annexure-P-11, by which the said authority has invited fresh tender for same work in which the petitioner has declared lowest bidder L-1. The name of work is mentioned in Serial No.06 of said NIT.

(iii). For further direction upon the concerned authority to enter into an agreement with the petitioner for the work in question in accordance with law and issue work order in his favour because the petitioner is still ready to do the said work at same rate as quoted in tender of group no.20 of NIT No.03/2021-22.

(iv). For declaration that the actions of Municipal Commissioner, Bhagalpur Nagar Nigam is illegal, colorable exercise of power, arbitrariness and against the law.

(v). For passing such an Order or Orders for which the petitioner is entitled under the law in the facts and circumstances of this case.

2. Petitioner is one of the bidders pursuant to the NIT dated 16.11.2021. The petitioner's bid was administratively accepted on 19.04.2022. However, there is no formal notification or



order of allotment of work and agreement. At this stage, the respondents have noticed that the petitioner was not fulfilling the criteria laid down in Clause 10 read with Clause 34 of NIT. To overcome Clause 10, learned counsel for the petitioner submitted that he had Class-II Certificate issued on 18.03.2021. However, the same has not been placed on record along with the bid application. On the other hand, he has produced Class-III Certificate issued by the B.C.D. To overcome Clause 10, his claim to allow him to produce Class-II Certificate subsequently, is not permissible for the reasons that petitioner's Class-II Certificate relates back to dated 18.03.2021. In other words, petitioner was in possession of Class-II Certificate as on date of issuing the NIT dated 16.11.2021 but did not produce it with bid document though he was required to furnish Class-II Certificate dated 18.03.2021 along with the bid application in terms of Clause 34. Clause 34 of NIT dated 16.11.2021 reads as under:-

"34. The bidders shall submit their eligibility and qualification details. Technical Bid, Financial Bid etc. in the online standard formats given for respective tenders in e-procurement website (www.eproc.bihar.gov.in) at the respective stage only. The bidders shall upload the scanned copies of all the relevant certificates, documents etc. In support of their eligibility criteria @ technical bids and other certificate/documents in the e-procurement website. The bidder shall sign on the supporting statements, documents, certifi-



cates, uploaded by him, owing responsibility for their correctness/authenticity."

(Underline Supplied)

3. In not furnishing Class-II Certificate along with the bid application, the petitioner’s bid application is not in order for the reasons that even though he was in possession of Class-II Certificate dated 18.03.2021 and the same was not uploaded along with the bid application and thereby he has violated Clause 34. Accordingly, the petitioner has not made out a case. Hence, the present writ petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

