

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17790 of 2021

=====

M/s SME Cable Manufacturer Welfare Association A Company Limited by Shares incorporated under the Provisions of Companies Act, 2013 and the Rules of the Companies (Incorporation) Rules, 2014 having its Office at A-005 Roman Court, Anshal Plaza Sushant City, Kundli Sonapat (Haryana) through its Authorized Signatory Sri Shiv Kumar Sinha, Aged about 51 years, Gender Male, Son of Late Shatrughan Sinha, Resident of Nisarpura, Amarpura, P.S. Naubatpur, District- Patna.

... .. Petitioner/s

Versus

1. The South Bihar Power Distribution Company Ltd. Patna, Bihar, a Government of Bihar undertaking (SBPDCL of the sake of brevity hereinafter), having its registered office Vidyut Bhawan, Bailey Road, Patna through its Chairman-cum-Managing Director.
2. The Chairman-cum-Managing Director, South Bihar Power Distribution Company Ltd., Patna, Bihar, having its office Vidyut Bhawan, Bailey Road, Patna.
3. The Managing Director, South Bihar Power Distribution Company Ltd., Patna, Bihar, having its office Vidyut Bhawan, Bailey Road, Patna.
4. The Chief Engineer, Department of Store and Purchase, South Bihar Power Distribution Company Ltd., Patna, Bihar, having its office Vidyut Bhawan, Bailey Road, Patna.
5. The Electrical Superintending Engineer, Department of Store and Purchase, South Bihar Power Distribution Company Ltd., Patna, Bihar, having its office Vidyut Bhawan, Bailey Road, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Arjun Kumar, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, Sr. Advocate
		Mr. Vijay Kumar Verma, Advocate
		Mr. Akhileshwar Singh, Advocate

=====

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

Date : 16-03-2023

Heard learned counsels for the respective parties.



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

“(i) For quashing/setting aside the Minimum Average Annual Turn Over of at least INR Two Hundred Crores only from the cable, conductor & allied businesses for the best three (3) Financial Years out of last five (5) Financial Years ending March 2020 fully detailed in column 3(A2)(ii) of all the four Notices inviting tender bearing NITS No. 11/PR/SBPDCL/ 2021 by SBPDCL, 12/ PR/SBPDCL/ 2021 by SBPDCL, 13/PR/SBPDCL/ 2021 by SBPDCL and 14/PR/SBPDCL/ 2021 by SBPDCL (Department of Store & Purchase) Patna inviting Online Tender for Domestic Competitive Bidding for the procurement of LT Arial Bunch Cable [3x120(Ph)+1x95 (Insulated Messenger-cum-Neutral) + 1x16 (Insulated Street Lighting) SQ. MM], LT Arial Bunch Cable [3x95(Ph)+1x70 (Insulated Messenger-cum-Neutral) 1x16 (Insulated Street Lighting) SQ. MM], LT Arial Bunch Cable [3x70(Ph)+1x50 (Insulated Messenger-cum-Neutral) + 1x16 (Insulated Street Lighting) SQ. MM] and LT Arial Bunch Cable [3x50(Ph)+1x35 (Insulated Messenger-cumNeutral) + 1x16 (Insulated Street Lighting) SQ. MM] respectively and thereafter consequential change in other terms and conditions of the notices inviting tender;

(ii) For the direction to the Respondents to amend the restriction of past experience of tender size fully detailed in column 3(A1)(iii) of all the four Notices inviting tender bearing NITS No. 11/PR/SBPDCL 2021 by SBPDCL, 12/PR/SBPDCL/ 2021 by SBPDCL, 13/PR/SBPDCL/ 2021 by SBPDCL and 14/PR/SBPDCL/ 2021 by SBPDCL (Department of Store & Purchase) Patna inviting Online Tender for Domestic Competitive Bidding for the procurement of LT AB Cable of different sizes in all four tenders;



(iii) For the direction to the Respondents to amend the restriction of production capacity of the bidder fully detailed in column 3(A1)(iii) itself of all the four Notices inviting tender bearing NITs No. 11/PR/SBPDCL/2021 by SBPDCL, 12/PR/SBPDCL/2021 by SBPDCL, 13/PR/SBPDCL/2021 by SBPDCL and 14/PR/SBPDCL/2021 by SBPDCL (Department of Store & Purchase) Patna inviting Online Tender for for Domestic Competitive Bidding for the procurement of LT AB Cable of different sizes in all tenders;

(iv) For the issuance of a writ mandamus directing the respondents to prescribe the pre-qualification criteria such as Minimum Average Annual Turnover, past-experience and the production capacity in accordance with the Office Memorandum dated 17.12.2002 of the Central Vigilance Commission, Government of India and to thereafter invite Bids from interested contractors;

(v) For the issuance of any other appropriate writ/(s)/order/(s)/ direction/(s) for which the petitioner is found entitled for in the present facts and circumstances of the case by this Hon'ble Court.”

3. During pendency of the present petition, the process of tender and issuance of work order have already completed. Moreover, there is no interim order so as to examine the relief sought by the petitioner.

4. Accordingly, the present petition has become infructuous. Reserving liberty to the petitioner to file writ petition in the event of similar tender notification is issued with the impugned clauses, he may request the Court for grant of interim order and thereafter, to consider the subject matter on merit.



5. With the above observation, writ petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.03.2023
Transmission Date	NA

