

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11048 of 2023

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Jawahar Lal Yadav Son of Hari Kisun Yadav, resident of Village- Paut, P.O. - Agarsanda, P.S. Arrah Muffasil, District - Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.
4. The Superintending Engineer, Work Zone, Kishanganj, Rural Works Department, Government of Bihar.
5. The Technical Secretary to the Engineer in Chief, Rural Works Department, Government of Bihar, Patna.
6. The Chief Engineer-4-cum-Nodal Officer, 3054, Rural Works Department, Government of Bihar, Patna.
7. The Chief Engineer-2 Rural Works Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ashish Giri, Advocate Mr.Sumit Kumar Jha, Advocate Mr.Riya Giri, Advocate
For the Respondent/s	:	Mr.Raghwanand (Ga11) Mr.Prabhat Kumar, Ac to GA11

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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 : 30-08-2023

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

“(i) To issue a writ/order/direction in the nature of certiorari to set aside order contained in Memo No. 3326 dt. 27.06.2023 issued under the signature of Engineer-in-chief,



Rural Works Department by which the petitioner has been qualified from the technical bid for the reason that the character certificate submitted by the petitioner along with his bid is not in accordance with tender and hence the technical bid of the petitioner is rejected as per Clause 34 of the NIT in relation to Package No. MR-N/22-23 Araria/08 at Sl. No. 1.

(ii) To hold and declare that the action of Respondent authorities in disqualifying the petitioner vide Memo No. 3326 dated 27.06.2023 issued under the signature of Engineer-in-chief, Rural Works Department from technical bid is arbitrary, malafide, perverse and not sustainable in the eye of law.

(iii) To issue a writ/order/direction in the nature of Mandamus, directing the respondents authorities to declare the petitioner technically qualified in relation to the present NIT in relation to Work Division, Araria bearing Package No. MR-N/22-23 Araria/08 at Sl. No. 1 issued by the Respondent Rural Works Department and further for opening of financial bid of the petitioner prior to finalizing the tender.

(iv) To pass interim/exparte interim direction to the respondents to consider the financial bid of the petitioner subject to the result of the present writ application. And/or order restraining the respondents from finalizing the tender in question and/or no final contract be awarded in relation to Work Division, Araria bearing Package No. MR-N/22-23 Araria at Sl. No. 1 issued by the Respondent Rural Works Department.

(v) To issue a writ/order/direction in the nature of Mandamus directing the respondents



authorities to let the petitioner participate in the financial bid.

(vi) Alternatively to issue writ/order/direction in the nature of certiorari to set aside the letter No. 489 dated 28.01.2021 issued under the signature of Secretary, Rural Works Department, Bihar, Patna under the grab of which the technical bid of the petitioner has been rejected as being ultra-vires Article 19(1)(g) of the Constitution of India.

(vii) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

2. On 09.08.2023 the following order was passed:-

“Heard learned counsels for the respective parties.

2. Learned counsel for the State – respondent is hereby directed to file counter affidavit before the next date of hearing. In the meanwhile, official respondents are hereby directed to stall tender process till next date of hearing for the reasons that petitioner’s technical bid has been turned down with reference to Clause 34 of tender document and it relates to furnishing of valid character certificate.

3. The petitioner is stated to have furnished valid character certificate. The contents of the certificate is relevant and not format. Therefore, the concerned respondent, in their counter affidavit, must furnish any relevant document to indicate that there was certain prescribed format and it was made know to the respective bidders.

4. Re-list this matter on 30.08.2023.

5. Further, reasons for rejection of petitioner’s technical bid on the score



that the petitioner is facing criminal proceedings. Even on this point, the tender document does not disqualify a bidder who is facing criminal proceedings.”

3. The concerned respondents have filed their counter statement on behalf of the Respondent Nos. 1 to 6 and they have reiterated the stand taken in CWJC No. 9710 of 2023.

4. Learned counsel for the petitioner submitted that the present matter is squarely covered by the decision in the case of *Jawahar Lal Yadav vs State of Bihar & Ors* passed in CWJC No. 9710 of 2023 dated 21.08.2023. The same has not been disputed by learned counsel for the respondents.

5. Accordingly, the present writ petition stands allowed in the light of the order passed in CWJC No. 9710 of 2023. Impugned order dated 27.06.2023 stands set aside.

6. The concerned authorities are hereby directed to accept the petitioner’s bid if it is otherwise in order.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.09.2023
Transmission Date	NA

