

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13161 of 2022

Arvind Kumar Sharma, S/o - Rudradev Prasad Sharma, Resident of House No. 07, Behat, P.S. - Jhanjharpur, District - Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Rural Works Department Govt. of Bihar, Patna.
2. The Principal Secretary Rural Works Department Govt. of Bihar, Patna.
3. The Engineer-in-Chief Rural Works Department, Vishveshwarya Bhawan, Bailey Road, Patna.
4. The Nodal Officer, PMGSY (Pradhan Mantri Gram Sadak Yojana), Bihar, Patna.
5. The Chief Engineer-3, Rural Works Department Govt. of Bihar, Patna.
6. The Superintendent Engineer Rural Works Department, Work Circle, Madhubani.
7. The Executive Engineer, Rural Works Department, Work Division, Jhanjharpur, District- Madhubani.
8. M/S Yadubansh Kumar Singh, S/o Late Suryanandan Singh, R/o - Village - Budhkara, P.S.- Katara, District - Muzaffarpur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 13388 of 2022

Bindeshwar Yadav Construction Pvt. Ltd. through its M.d. Rohit Kumar Yadav, aged about 50 Years, (Male), Son of Bindeshwar Prasad Yadav, having its Residence-Cum-Office at Hariraha, Rustampur, P.S.-Laukhi, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Govt. of Bihar, Patna.
2. The Principle Secretary, Rural Works Department, Govt. of Bihar, Patna.
3. Engineer-in-Chief, Rural Works Department, Govt. of Bihar, Patna.
4. Superintending Engineer, Works Circle, Rural Works Department, Darbhanga.
5. The Secretary to Engineer-in-Chief (Technology), Rural Works Department.
6. Chief Engineer-3, Rural Works Department.
7. Chief Engineer-4-Cum-Nodal Officer, Rural Works Department.



8. M/s Jadubansh Kumar Singh (BID 514095) having its Office at Vill-Budhkara, P.S.-Katra, Dist.-Muzaffarpur

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 13161 of 2022)

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate
For the Respondent/s : Mr. Kameshwar Prasad Gupta (GP 10)
Mr. Virendra Kumar. AC to GP 10
For the Respondent no.8 Mr. Y.V. Giri, Sr. Adv.
Mr. Pranav Kumar, Advocate
Ms. Shrishti Singh, Advocate

(In Civil Writ Jurisdiction Case No. 13388 of 2022)

For the Petitioner/s : Mr. Satyam Shivam Sundaram, Advocate
For the Respondent/s : Mr. Kameshwar Pd. Gupta (Gp10)
Mr. Virendra Kumar. AC to GP 10
For the Respondent no.8 Mr. Y.V. Giri, Sr. Adv.
Mr. Pranav Kumar, Advocate
Ms. Shrishti 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 : 18-04-2023

In CWJC No. 13161 of 2022.

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

“(i) For issuance of an appropriate writ in the nature of certiorari for quashing the decision dated 24.08.2022 and 31.08.2022 of the Technical Bid Committee with respect to respondent no. 08 by which contrary to clause-35 of Notice Inviting Tender (NIT herein after) the respondent no. 08 has declared qualified in its first meeting dated 24.08.2022 and even in its re-meeting dated 31.08.2022 respectively.

(ii) For issuance of an appropriate writ in the nature of Mandamus, commanding and directing the Respondents to declare the Bid Id No. 514097



arising out of Tender Id No. 119124 of the respondent no. 08 as disqualified, as the same is in contravention of clause 35 of NIT and moreover, the same is also contrary to direction issued by respondent no.02 contained in memo no. 489 dated 28.01.2021, since under the similar circumstances the technical bid committee has declared qualified to others, apart from it the respondent no.08 has also not provided separate affidavit of engineers under whose supervision tender work has to be executed.

(iii) For a declaration that respondent no.08 is disqualified in technical bid therefore, can not eligible to participate in the financial bid going to be opened any day.

(iv) For issuance of any other appropriate writ/s, order/s, direction/s for which the writ petitioners shall be found entitle under the facts and circumstances of the case.”

2. The petitioner has been made ineligible in respect of NIT vide Annexure-3. The petitioner has assailed the eligibility of 8th respondent (M/S Yadubansh Kumar Singh) stating that 8th respondent is a partnership firm and consisting of three partners whereas character certificate of only one partner has been furnished. Therefore, it is contrary to clause-35 read with the remarks made by the Executive Engineer in Annexure-4 and contrary to similarly situated case vide Annexure-7 dated 14.08.2022.

3. *Per contra*, learned counsel for the respondents resisted the aforesaid contentions and submitted that there is no specific requirement of each partner's character certificate to be enclosed



in terms of Clause-35 of the NIT. The decision of the Executive Engineer that character certificate of all the partners was not attached is contrary to Clause 35. Further in Anneuxre-7 in identical matters, if the authorities have committed error, the petitioner is not entitled to take shelter under such document.

4. Heard the learned counsels for the respective parties.

5. Core issue involved in the present *lis* is whether 8th respondent is to be made ineligible for want of non-production of character certificate of all the three partners or not? It is necessary to reproduce Clause-35 of the NIT. Clause-35 of the NIT reads as under:-

“35. As per RWD Letter no. 489 Annex. Dated 28.01.2021 bidders should have to upload valid Character Certificate along with tender document.”

6. Perusal of the aforementioned clause it does not stipulate insofar as partnership firm is concerned, each of the partners were required to furnish valid character certificate along with the tender document. The Executive Engineer who has made a remark in Annexure-4 that character certificate of all partners was not attached by the 8th respondent is not in the light of Clause-35 cited (*supra*). Annexure-7, if the concerned authority has taken certain decision, the same is not attracted in



the present case in view of Clause-35 of the NIT read with the fact that one of the partners has furnished valid character certificate along with the tender document.

7. In the light of these facts and circumstances, the petitioner has not made out a *prima facie* case, accordingly, the writ petition stands dismissed.

8. Pending Interlocutory applications, if any, stands disposed of.

In CWJC No. 13388 of 2022.

In the light of order passed in CWJC No. 13161 of 2022, this writ petition also stands dismissed.

2. Pending Interlocutory applications, if any, stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Balmukund/
DKS/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	24.04.2023
Transmission Date	NA

