

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14591 of 2022

MSD, Telematics Pvt. Ltd. through its Director Sri Siddharth Kasana aged about 37 years (Male) son of Surendra Singh Kasana having office at D-33, Third Floor, Infocity-II, Sector-33, Gurugram, Haryana. Pin- 122001.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Prohibition, Excise and Registration, Government of Bihar, Vikash Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Department of Prohibition, Excise and Registration, Government of Bihar, Vikash Bhawan, Bailey Road, Patna.
3. Excise Commissioner cum IF Registration having office at Vikash Bhawan, Bailey Road Bailey Road, Patna.
4. The Assistant Commissioner, Excise having office at Vikash Bhawan, Bailey Road, Patna.
5. IMZ Corporate Pvt. Ltd., having office at E-43, 1st Floor, Chhatarpur Extension, New Delhi, South- West Delhi- 110074
6. Traqptro Technologies Pvt. Ltd., having office at 3rd Floor, Amit Kalash, Opposite Noorani Masjid, Pirmohani Road, Kadamkuan, Patna.
7. Transecur Telematics Pvt. Ltd., having office at B-100, 1st Floor, Nilkanth Tower, Narayan Industrial Area, Phase- 1, New Delhi, South- West Delhi, Delhi- 110028

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha, Sadv.
For the State	:	Mr.Sriram Krishna, AC to SC-11
For respondent no. 7	:	Mr. Mohit Agrawal, Adv.
For respondent no. 5	:	Mr. Raj Kumar, Adv. With Mr. Sarvottam Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

5 14-03-2023

1. Heard the parties.

2. The petitioner has prayed as under:-

“ 1. (i) Issuance of writ in the nature of Certiorari for quashing the entire selection process empanelment of vendors under Tender No. E-Lock/Excise/2020/02 dated 24.08.2022 including the empanelment of vendors on the ground that the had



been Tailor-made entire Tender of and discriminatory and the empanelment under the impugned Tender dated 24.08.2022 amounts to breach of contract with the Petitioner Agency already working as H-1 selected bidder since 07.02.2022 after selection under the tender dated 30.11.2021 for its experience and Work since 2016 (six years work experience in the same trade).

(ii) Issuance of appropriate writ to quash the letter under Reference No. 5017 dated 22.09.2022 by which the Petitioner had been ask to consent for the financial offer of subsequent tender dated 24.08.2022 alongwith, Letter No. 3729 dated 25.07.2022 containing by holding and declaring the two letters indicate biased and prejudiced mind set of the department though the petitioner had suitable replied vide Reply dated 26.02.2022 but apprehends action to facilitate the business of the newly selected vendors.

(iii) Issuance of declaration that the contract of the Petitioner for the identical works (installation of E-lock with GPS based tracking system) for three years is affected by denial of opportunities and the same is reflective of bias and discrimination to exclude the present working vendor in order to finally terminate the contract.

(iv) Issuance of direction to the Respondent Authorities to forthwith stop all agreements and award of work in favour of Private Respondents pursuant to the illegal/ malafide/ discriminatory tender based on change of essential Quality Requirement (QR) for selecting the pre-decided vendor to exclude the present petitioner from its business.

(v) Issuance of interim order to the



Respondents to stop any transaction of execution of agreement with the newly empanelled three vendors as the tender itself had been illegally issued with a view to exclude the Petitioner Agency by creating difficulty in business and financial loss.”

3. The petitioner entered into an agreement with the respondents in terms of Annexure-4, dated 08.02.2022, wherein condition no. 12.4 reads as under:-

“12.4.- ARBITRATION. In case of any dispute, the matter would be through arbitration as per the rules and procedure framed under Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008.”

4. Keeping in view above, the dispute as sought to be raised by the petitioner has to be referred, if at all for arbitration.

5. Leaving it open for the petitioner to take up all its remedies available under the Act of 1996, as amended from time to time, the writ petition is dismissed on account of efficacious alternate remedy available.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 18

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