

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15339 of 2022

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M/s Vijay Kumar Singh through its Proprietor Vijay Kumar Singh aged about 55 years, Male, Son of Ram Balak Singh, resident of North Mandiri, Chakaram Tola, P.S. - Budha Colony, District Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Engineer in Chief, Rural Works Department, Government of Bihar, Patna.
3. The Chief Engineer-I, Rural Works Department, Government of Bihar, Patna.
4. The Superintending Engineer, Rural Works Department, Works Circle, Nalanda, Bihar.
5. The Executive Engineer, Office of the Chief Engineer-I, Rural Works Department, Government of Bihar, Patna.
6. The Executive Engineer, Works Division, Rural Works Division, Rajgir, District Nalanda, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate Mr. Chandan Kumar, Advocate
For the Respondent/s	:	Mr. Kameshwar Pd. Gupta (GP-10) Mr. Upendra Singh, AC to GP-10

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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 : 25-02-2023

Heard learned counsels for the parties.

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

"(i) Quashing of the decision of the Technical Bid Evaluation Committee dated 27.09.2022 as notified vide Memo No. 1440 whereby the petitioner's Technical Bid



has been held to be non responsive and thus rejected on the ground that the validity of the Bank Guarantee is less than 6 months from the last date of the submission of the Tender document as require under Clause 17.2(c) of the Model Bidding Document (MBD);

(ii) Direction upon the respondents to declare petitioner's Technical Bid to be responsive and open the financial bid; and

(iii) Restraining the Respondents from proceeding/ finalizing the Tender process and/ or creating third party rights during the pendency of the present writ application without the leave of this Hon'ble Court."

3. Crux of the matter in the present petition is whether Bank Guarantee furnished by the petitioner dated 16th August, 2022 and valid up to 21.02.2023 is in order or not?

4. Perusal of Annexure-1 relating to notice inviting tender issued on 30.07.2022 while assigning the last date of submission of application on 17.08.2022, Clause 14 of Notice Inviting Tender reads as under:-

"14. Earnest money duly endorsed/ pledged to the authorized departmental representative (Concerned Executive Engineer, RWD Works Division) should be in any of the following shapes or combination thereof.

(a) Fixed Deposit receipt of Nationalized/ Scheduled Bank within the state of Bihar.

(b) NSC issued within the State of Bihar.

(c) Bank Guarantee of Nationalized/



Scheduled Bank may also be submitted within the State of Bihar. The above instrument (s) shall remain valid for the minimum period of six months after last date of receipt of tender. (underling supplied)

(d) The earnest money shown in NIT is indicative only. Actual amount will be in accordance to actual BOQ cost."

Clause 14 (c) is relevant to determine whether Bank Guarantee furnished by the petitioner dated 16th August, 2022 is valid or not? Reading of the last date of submission of application as 17.08.2022 it is evident that Bank Guarantee dated 16th August, 2022 which is valid up to 21.02.2023, Clause (c) of 14 is fulfilled. Due to administrative difficulties the respondents were stated to have extended the last date of submission of application from 17.08.2022 to 23.08.2022. Now the contention of the respondent is that Bank Guarantee is required to be taken note of with reference to extended date i.e. 23.08.2022, the same cannot be accepted for the reasons that last date prescribed is 17.08.2022 and petitioner had obtained Bank Guarantee on 16th August, 2022 and merely last date was extended by the respondent from 17.08.2022 to 23.08.2022, the petitioner cannot be asked to obtain or get another Bank Guarantee subsequent to 23.08.2022 for a period of six months, when he had already obtained Bank Guarantee on 16th August,



2022.

5. In the light of these facts and circumstances, petitioner has made out a *prima facie* case so as to interfere with the impugned order dated 27.09.2022, vide Annexure-4. Hence, it is set aside.

6. Accordingly, the present writ petition stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

rakhi/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	01.03.2023
Transmission Date	N.A.

