

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.153 of 2023

Opusing Information Services Private Limited through its Authorized Signatory Bikram Kumar, S/o Ram Bilas Singh, Aged about 43 years, Male, R/o Sadbhana Path, Near Patli Green Marriage Hall, Magistrate Colony, Ashiananagar, Patna, Bihar- 800025.

... .. Petitioner.

Versus

1. The State of Bihar through its Chief Secretary.
2. The Principal Secretary, Planning and Development Department, Govt. of Bihar, Patna.
3. The Additional Secretary, Planning and Development Department, Govt. of Bihar, Patna.
4. The Joint Secretary, Planning and Development Department, Govt. of Bihar, Patna.

... .. Respondents.

Appearance :

For the Petitioner	:	Mr. Puneet Siddharttha, Advocate.
For the State	:	Mr. Vinay Kirti Singh (GA-2).
		Mr. Vijay Kumar Verma, AC to GA-2.

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

Date : 07-10-2023

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

“(A). A writ in the nature of Certiorari or any other appropriate writ/s, order/s, direction/s quashing the following:

- (i) The order dated 06.06.2022 (hereinafter referred to as ‘impugned order dated 06.06.2022) issued vide Memo No.2327 whereby, the Petitioner has been blacklisted for two years.



(ii). Letter dated 06.06.2022 (hereinafter referred to as 'impugned Letter dated 06.06.2022') issued by the Respondent No.3, whereby, Respondent No.3 has cancelled the Letter of Intent dated 02.09.2021 issued in favour of the Petitioner to setup Call Centre for Bihar Student Credit Card Scheme, Mukhyamanti Nischay Swayam Sahayata Bhatta Yojna and Kaushal Yuva Program and further has seized the Earnest Money Deposited by the Petitioner Company amounting to Rs.1,00,000/- (Rupees One Lakh Only).

(B). A writ in the nature of mandamus or any other appropriate writ/s, order/s, direction/s for the following reliefs:

(i). To direct the Respondent Authorities to re-issue the Letter of Intent earlier issued in favour of the Petitioner Company for setting up a Call Centre for Bihar Student Credit Card Scheme, Mukhyamantri Nischay Swayam Sahayata Bhatta Yojna and Kaushal Yuva Program in favour of the Petitioner Company.

(ii). To direct the Respondent Authorities to make the payment of the Proforma Invoice dated 20.12.2021 and 03.03.2022.

(iii). To direct the respondent Authorities to refund the Earnest Money Deposited by the Petitioner Company amounting to Rs.1,00,000/-(Rupees One Lakh Only).

(iv). To direct the Respondent Authorities to bring on



record the Complaint received by the Respondent Authorities whereby, it has been stated that the Petitioner Company had submitted a fake experience certificated.

- (v). To direct the Respondent Authorities to bring on record the detailed verification/enquiry report of Tender Evaluation Committee.
- (C) To any other relief/s to which the petitioner is found entitled to as Your Lordship may deem fit and proper in the circumstances of the case.”

2. The petitioner has been blacklisted for a period of two years on the score that the petitioner had furnished the experience certificates which is alleged to be fake. In this regard, there was protracted correspondence by the Respondents-State with the Cinfogen Private Limited and White Lion Technology. Both the firms have given their clarifications to the extent that whatever the work order issued in favour of the petitioner was in order and they are not fake.

3. For the purpose of Experience, relevant clause is relating to 3.1 Pre-Qualification (PQ) Criteria. For the purpose of the present case, it is necessary to extract the Serial No.2 which reads as under:

2	Experience	The bidder either of the consortium parties should have been in business of Call Centre for last two years i.e.	Work Order/Certificate/Self Certificate
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		FY 2019-20 & 2020-21 running the call centre offering Inbound/Outbound call services to a government department/PSU/Telecom Service Provider/Schedule Commercial Bank with minimum 10 agents at single location.	(Certified by the Statutory Auditor) depicting services provided.
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4. Reading of the Column No.3 relating to specific requirement, it is evident that the petitioner was required to furnish material like the work order/certificate/self certificate (certified by the Statutory Auditor) depicting services provided of the services to a Government Department/PSU/Telecom Service Provider/Scheduled Commercial Bank) with minimum 10 agents at single location. The petitioner does not fulfill the aforementioned specific requirement. On the other hand, he has produced material in respect of execution of certain work in favour of the Cinfogen Private Limited and White Lion Technology. Both the firms do not fall under any of the Government Department/PSU. In other words, it is an entirely private Entity. On this score, the concerned respondents should have rejected the petitioner's bid application at the threshold, namely, at the stage of evaluation of technical bid. On the other hand, technical bid was accepted and it was in favour of the petitioner on 02.09.2022. It is stated that the petitioner has



executed certain works for a period of 9 months. Thereafter, the impugned action has been taken.

5. There is default on the part of the petitioner as well as the respondents. The petitioner has misled the authorities insofar as the experience that he has not fulfilled the requisite experience in terms of specific requirement of the NIT in particularly, Clause 3.1 Pre-Qualification (PQ) Criteria. On the other hand, respondents are of the view that the petitioner has filed fake experience material, it is untrue. The concerned respondents have not taken note of what was the defect in the petitioner's bid application at the initial stage and even to this day, their contention is that the petitioner has produced material relating to experience are fake, which is not true.

6. In the light of these facts and circumstances, the concerned respondent is hereby directed to settle payments of the petitioner insofar as the execution of the work. In this regard, the petitioner is hereby directed to furnish necessary material if it is not furnished as on today. If such material and claim is made before the respondent, the concerned respondent shall settle the petitioner's all dues within a period of three months from the date of the petitioner's claim.

7. Having regard to the aforementioned error or



mistake committed by the petitioner insofar as providing the material information to meet the experience and it is not in accordance with the specific requirements under clause 3.1 Pre-Qualification (PQ) Criteria. Therefore, we decline to interfere with the blacklisting order.

8. Accordingly, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

P.S./-Manish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.10.2023.
Transmission Date	NA

