

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.814 of 2023

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Kumar Sonu Singh son of Sidheshwar Singh, resident of New Area, Ward No. 34, Police Station- Sasaram, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Vikas Bhawan, New Secretariat, Patna, Bihar- 800 001.
2. The Additional Secretary, Urban Development and Housing Department, Government of Bihar, Vikas Bhawan, New Secretariat, Patna, Bihar- 800 001.
3. The Managing Director, Bihar Urban Infrastructure Development Corporation Limited, West Boring Cannal Road, Raja Pul, Patna- 800001.
4. Superintending Engineer, Urban Development Circle- 02, Patna.
5. Municipal Commissioner, Municipal Corporation Sasaram, Rohtas.
6. Executive Engineer, Urban Development Sub- Division, Rohtas and Kaimur, Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Respondent/s : Mr. Yogendra Prasad Sinha (AAG-7)

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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 : 19-04-2023

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

“1 i. In the nature of certiorari, for quashing of the part of the decision, rendered and communicated, vide, minutes of meeting, dated 01.12.2022, held in connection with Tender Abhishek w.r.t. to construction of P.C.C. Road and drain ie. Sri Basant Singh ke Ghar Se Sri Vinood Singh Ke Ghar Hote Hue College Road Tak P.C.C. and Nali With Slab Nirman Work in Ward No. 34), by the Technical Bid Committee whereby the Committee approved its earlier decision made on 23.09.2022, evaluating part-I i.e. technical bid, found bid of the petitioner to be non-responsive to the requirements of the



bidding document and further declared unsuccessful and disqualified the petitioner in terms of clause 19(4) (e) of the Notice Inviting Tender and further dismissed the objection/complaint, made in terms of the letter no. 562, dated 10.10.2022;

ii. In addition, for issuance of a writ in the nature of certiorari, for quashing the entire tender process since the tender process adopted in the present case is contrary to the provisions of the NIT and Bihar Finance Rules and is embraced to favor few bidders;

iii. Furthermore, for issuance of a writ in the nature of mandamus, restraining the respondents from proceeding further in connection with the tender process abovementioned w.r.t. Tender Id No. 24448, in other way, not to evaluate the part-II i.e. Financial Part of the Bidders participated in connection with the tender supra and/or for any other relief[s] for which the Petitioner may be found entitled to in the facts & circumstances of the present case.”

2. The petitioner was one of the bidders pursuant to the NIT No. 09/2022-23 dated 22.07.2022. The tender was for construction of P.C.C road and drain, namely, “Sri Basant Singh ke Ghar Se Sri Vinood Singh Ke Ghar Hote Hue College Road Tak P.C.C. and Nali with Slab Nirman work in Ward No. 34.”

3. The petitioner pointed out that in terms of NIT No. 09/2022-23 dated 22.07.2022 the technical bid was required to be opened on 06.08.2022 and financial bid was on 15.02.2023 whereas the concerned authority proceeded to open both technical and financial bid on 06.08.2022 to this extent that the official respondents are not in a position to apprise this Court in producing material information. On the other hand, it is also



submitted that the official respondents have not taken one particular stand on what date the technical and financial bid was opened and they have not maintained the record. They are simply saying that all the processes were undertaken online and such exercise was taken by the Assistant Engineer and not the Executive Engineer. Such statement is supported by the Executive Engineer who is present in the Court.

4. Learned counsel for the respondent in order to support the decision of the respondent, he is relying on Chief Engineer's communication dated 26.07.2017 to contend that if the work is less than Rs. 50 lakh, in such an event, both technical and financial bid could be opened on a particular date. Therefore, there is no infirmity in the impugned action of the respondent.

5. Heard learned counsel for the respective parties.

6. The respondents are not in a position to apprise this Court with material information in order to analyze the matter. In the counter affidavit also they have not taken specific stand to the extent on what date technical and financial bid was opened. Even, when we enquired orally from the Executive Engineer who is present in the Court as to what was the date of opening of technical and financial bid, he is not in a position to apprise



this Court with records, in fact records have not been maintained by them.

7. Therefore, *prima facie* we find that some fishy thing must have happened in the entire process of NIT No. 09/2022-23 dated 22.07.2022 (Annexure-1). Even, assuming that they are following Annexure-C to the counter affidavit dated 26.07.2017 of the Chief Engineer, general direction insofar as opening of technical and financial bid on the same date. However, the same has not been informed to such of those bidders in the NIT dated 22.07.2022 .

8. In view of these facts and circumstances, the petitioner has made out a *prima facie* case accordingly, Annexure-1 dated 22.07.2022 stands set aside, reserving liberty to the concerned respondent to proceed in accordance with law after maintaining all the relevant records.

9. Accordingly, writ petition stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

shoaib/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.04.2023.
Transmission Date	NA

