

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.997 of 2024

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Himani Refrigeration and Co. through its proprietor, Assim Kumar, Male, aged about 53 years, Son of Late Jagda Nand Prasad, Resident of 73-K, Harish Chandra Nagar, Sheikhpura, Dhelwan, Police Station - Beur, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Building Construction Department, Government of Bihar, Patna.
2. The Principal Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Engineer in Chief- cum - Additional Commissioner cum Special Secretary, Building Construction Department, Government of Bihar, Patna.
4. The Chief Electrical Engineer, Building Construction Department, Government of Bihar, Patna.
5. The Electrical Superintendent Engineer, Electrical Works Circle, South Bihar, Patna.
6. The Electrical Executive Engineer, Energy Works Division-I, Patna.
7. The Managing Director, Bihar State Electronics Development Corporation Ltd. (Beltron), Patna.
8. The 3-Member Circle Tender Committee represented by Electrical Superintendent Engineer, Electrical Works Circle, South Bihar, Patna.
9. The Estimator, Electrical Works Circle, South Bihar, Patna.
10. The Estimating Officer, Electrical Works Circle, South Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Ranjan, Advocate
For the State	:	Mr. Government Pleader 4
For the BELTRON	:	Mr. Girish Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)
Date : 08-04-2024

Heard the parties.

2. The petitioner, a Class-III Contractor, registered with



the Building Construction Department, has invoked the equitable jurisdiction of this Court under Article 226 of the Constitution of India for the following reliefs:

“(i) For issuance of a writ(s), order(s) or direction(s) in the nature of mandamus commanding the respondents to issue the work order in respect of SITC of VRV/VRF & Cassette Air Conditioning System in Hall, Corridor and 4 No. Rooms at 6th Floor (Block-B), Niyojan Bhawan, Bailey Road, Patna as the Divisional Tender Committee has recommended the lowest rate of bid offered by the petitioner for approval to the Circle Tender Committee and consequently the Circle Tender Committee in its proceeding dated 26.10.2023 has approved the recommendation of the Divisional Tender Committee for allotment of work to the petitioner firm by issuing necessary directions but the respondent no. 6 for reason best known to him is not issuing the work order which action of respondent no. 6 is arbitrary, illegal and malafide.

(ii) For issuance of status quo or in the alternative, restraining respondent no. 6 from taking any coercive step during the pendency of the writ petition.

(iii) For any other relief / reliefs to which the petitioner is found entitled in the facts and circumstances of the case.”

3. It is submitted that in response to NIT No. 22 of 2023-24 dated 21.09.2023 the petitioner submitted his tender and after having found the petitioner L1 bidder, the Divisional



Tender Committee recommended the name of the petitioner's firm for the award of contract to the Circle Tender Committee and pursuant thereto, the recommendation has also been made to issue work order in favour of the petitioner's firm. However, on account of objection raised by the tenderers, namely, Shreyas Enterprises and Upendra Kumar Sinha in relation to non-filing/uploading of valid character certificate; led to cancellation of the work order.

4. Mr. Sanjeev Ranjan, learned Counsel representing the petitioner fairly submitted that in an identical matter in relation to another work order under the same NIT No. 20 of 2023-24 in CWJC No. 1688 of 2024, this Court *vide* its order dated 28.03.2024 has negated the submission of the petitioner after holding that the petitioner has failed to upload the valid character certificate with tender document and any character certificate even if produced subsequently would be inconsequential, since in the tendering the last date is sacrosanct due to competition between various tenderers.

5. However, advertent to the aforesaid facts, he further contended that now the grievance of the petitioner is only with respect to withholding of earnest money by the concerned Department without there being any adverse order against him



in this regard. At this juncture, it was also submitted that even before the decision of the competent authority, adverse to the petitioner, valid character certificate has already been issued in favour of the petitioner.

6. Considering the identical issue and the submissions advanced before this Court, the present writ petition also stands dismissed in terms of the order dated 28.03.2024 passed in CWJC No. 1688 of 2024, however reserving liberty to the petitioner to raise his grievance for return of the earnest money by filing a proper representation before the concerned authority, who shall look into the matter and pass an appropriate order.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.04.2024
Transmission Date	

