

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2435 of 2023

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M/s Good Year Security Services, Registered Office at A-75, Upper Ground Floor, Sector-8, Dwarika, New Delhi- 110077 through its partner Rahul Pratap Singh alias Rahul Pratap (M), aged about 32 years, S/o Sanjay Singh, R/o B- 135, Street No. 9, Pipal Wala Road, Mohan Garden, Uttam Nagar, New Delhi- 110059.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Urban Development, Govt. of Bihar, Patna.
2. The Municipal Commissioner, Patna Municipal Corporation, Second Floor, Block-C, Maurya Lok Complex, Budhha Marg, Patna, Bihar.
3. The Tender Committee, through its member, Patna Municipal Corporation, Second Floor, Block-C, Maurya Lok Complex, Budhha Marg, Patna, Bihar.
4. Virtuous India Pvt. Ltd. R/o O-92, Bank Street, Munirka, New Delhi-110067.
5. M/s Mauryan Kars Auto Services LLP R/o Tyagi Bhawan, New Bailey Road, Saguna, Danapur, Patna, Bihar.
6. M/s M4 Solution Pvt. Ltd. R/o Sco-33, 2nd Floor, Sector-15, Part-I, Huda Market, Gurugram-122001 (Haryana).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Navendu Kumar, Advocate
For the Respondent/s	:	Mr. Yogendra Pd. Sinha, AAG-7
For the PMC	:	Mr. Prasoon Sinha, Advocate
For the Resp. No. 4 to 6	:	Mr. Raja Ram Mishra, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-01-2024

The petitioner, who was successful in getting empanelled pursuant to a Request for Proposal (for short 'RFP), for empanelment of agencies to provide outsourced manpower for performing the day-to-day activities of the Patna Municipal



Corporation (for short “PMC”), is aggrieved with the fact that they have not been granted any work order despite the empanelment; while the other three empanelled agencies have been given work orders, as is revealed from Annexure-1.

2. The learned counsel for the petitioner submits that even earlier, the petitioner was carrying on works of the PMC, as awarded at Annexures 1 and 2. Even in the present instance, the petitioner was successful in getting empanelled. Initially, the work orders were not issued since two unsuccessful tenderers had challenged the empanelment before this Court, in which there was an interim order, which was later vacated. Annexure-1 work order dated 24.12.2022 was issued. The petitioner alone was excluded from being allotted work. Only from the counter affidavit filed in this writ petition, the petitioner realised that there was a blacklisting by the PMC, ordered against the petitioner with respect to an earlier contract. The petitioner challenged the same and he was successful in getting the blacklisting set aside. The petitioner claims work as per the empanelment and as provided to the other three agencies empanelled.

3. The learned Standing Counsel for the PMC submits that there cannot be any work claimed as such, since mere



empanelment, even as per the RFP, does not confer any right on the empanelled agencies for allotment.

4. That the petitioner was successful in the tender proceedings, is very evident from Annexure-6. A rate justification was called for from the petitioner and the petitioner's response is produced as Annexure-7. A meeting is said to have been held by the respondent-PMC in the month of December, in which, the petitioner's firm alone was not invited, upon which he raised a complaint at Annexure-8.

5. Admittedly, the tender proceedings could not be finalised, since a writ petition was filed by the two unsuccessful bidders, in which, as per Annexure-R/2/I, a *status quo* order was passed by a Division Bench of this Court in CWJC No. 4850 of 2022. Later, as per order dated 08.12.2022, produced as Annexure-2/J, the interim order was vacated and the PMC was permitted to finalise the tender. The vacation of the order led to the issuance of Annexure-1 wherein the petitioner was not given any work; while the other three selected persons, as per Annexure-6, were granted work.

6. In the counter affidavit filed by the respondents Nos. 1 and 2, it has been categorically averred that the petitioner was subjected to a proceeding and he was blacklisted by the



PMC. The petitioner has filed a reply to the counter affidavit, in which the petitioner has produced the judgment in CWJC No. 10596 of 2023 dated 14.09.2023, as Annexure-A/1, wherein the blacklisting order was set aside. A reading of the judgment would indicate that the petitioner came to know about the blacklisting only when the PMC served a copy of the counter affidavit in this writ petition. There is nothing produced by the PMC to indicate that, in fact, the blacklisting order was communicated to the petitioner. In any event, by Annexure-1 judgment produced by the petitioner, the blacklisting has been set aside. The petitioner also has been empanelled; which is not cancelled. What remain is the question of work being given to the petitioner.

7. The learned Standing Counsel for the PMC specifically points to Clause 3.12 of the RFP, which reads as under:-

“PMC is not bound to award work to every empanelled agency. The proposals being invited are non-binding and without any commitment of award of work.”

The tender was only for empanelment and none can claim an absolute right for award of work.

8. In the present case, it is to be noticed that the award



of work having been denied, the petitioner was before this Court. The respondent-PMC explained before this Court that there was a blacklisting against the petitioner which kept them from awarding any work. It is pertinent that the existence of a blacklisting did not motivate the PMC to cancel the empanelment of the petitioner.

9. In any event, as of now, the blacklisting has been set aside by this Court. Empanelment of the petitioner also remains undisturbed. We notice the RFP and only observe that, though the petitioner may not have any right to get work, it is only in public interest that when empanelment of more than one agencies are made, for the purpose of outsourcing manpower, necessarily, while awarding work, negotiation should be carried out with the agencies and the best offer, which also imposes minimum liability on the Corporation, would be accepted. It is only in that public interest, such an empanelment of more than one agency is carried out.

10. In the above circumstances, we reject the contentions of the respondents, insofar as the grounds for not awarding the work. Since, the empanelment has not yet been cancelled, it has to be continued. As far as awarding of work, we cannot direct the PMC to award work to the empanelled



agencies. However, noticing that three other agencies have already been awarded work, it is only proper that the PMC, if any work is available, consider the petitioner also, definitely after receiving the competitive quotes from others.

11. The writ petition stands disposed of with the above directions.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	19.01.2024
Transmission Date	

