

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3024 of 2024

Ranvir Kumar Son of Sri Hari Madhav Rai, resident of Vilage Rampur
Chandrabhan, P.S. Mahua, District Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Bihar State Food and Civil Supplies Corporation through its Managing Director, Bihar, Patna.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation, Bihar, Patna.
4. The District Magistrate cum Chairman, District Transport Committee, Vaishali, Bihar.
5. The Deputy Development Commissioner cum Member, District Transport Committee, Vaishali, Bihar.
6. The District Manager, State Food Corporation, District Vaishali, Bihar.
7. Ajay Kumar, son of Girwaldhari Rai, resident of Village Mansurpur, P.S. Sarai, District Vaishali.
8. Kalpana Kumari, wife of Rajiv Kumar, resident of Village Chakrabrahim, Vishnurajkhand, P.S. Bidupur, District Vaishali.
9. Sita Devi, wife of Ram Narayan Rai, resident of Village Manjhauli, Dharmdas, P.S. Sadar, District Muzaffarpur.
10. Indu Singh, wife of Kamlesh Kumar, resident of Village Ganjpar Bakipur Gorakh, P.S. Fatuha, District Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 3838 of 2024

Sanjay Kumar Son of Rajendra Prasad Kushwaha Resident of Village-
Amnour Harnarayan P.S. Amnour District Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secreary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Bihar State Food and Civil Supplies Corporation, through its Managing Director, Bihar Patna.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation, Bihar, Patna.
4. The District Magistrate Cum Chairman, District Transport Committee, Vaishali, Bihar.
5. The Deputy Development Commissioner Cum Member, District Transport Committee, Vaishali, Bihar.



- 6. The District Manager, State Food Corporation, District-Vaishali, Bihar.
- 7. Ajay Kumar Son of Girwaldhari Rai Resident of Village-Mansurpur, P.S. Sarai, Distirct-Vaishali.
- 8. Kalpana Kumari Wife of Rajiv Kumar Resident of Village-Chakrabrahim, Vishnurajkhand, P.S. Bidupur, Distirct-Vaishali.
- 9. Sita Devi Wife of Ram Narayan Rai Resident of Village-Manjhauli, Dharmdas, P.S. Sadar, District-Muzaffarpur.
- 10. Indu Singh Wife of Kamlesh Kumar Resident of Vilalge- Ganjpar Bakipur Gorakh, P.S. Fatuha, District-Patna.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 3842 of 2024

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Arun Kumar Son of Lakhichandra Sah, resident of village Bhagwanpur Ratti, P.S. - Vaishali, District - Vaishali.

... .. Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
- 2. The Bihar State Food and Civil Supplies Corporation, through its Managing Director, Bihar, Patna.
- 3. The Managing Director, Bihar State Food and Civil Supplies Corporation, Bihar Patna.
- 4. The District Magistrate cum Chairman, District Transport Committee, Vaishali, Bihar.
- 5. The Deputy Development Commissioner cum Member, District Transport Committee, Vaishali, Bihar.
- 6. The District Manager, State Food Corporation, District Vaishali, Bihar.
- 7. Ajay Kumar, Son of Girwaldhari Rai, Resident of village Mansurpur, P.S. Sarai, District Vaishali.
- 8. Kalpana Kumari, Wife of Rajiv Kumar, Resident of village Chakrabrahim, Vishnurajkhand, P.S. - Bidupur, District - Vaishali.
- 9. Sita Devi, Wife of Ram Narayan Rai, resident of village Manjhauli, Dharmdas, P.S. Sadar, District - Mzuaffarpur.
- 10. Indu Singh, Wife of Kamlesh Kumar, resident of village Ganjpar Bakipur Gorakh, P.S. Fatuha, District Patna.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 3940 of 2024

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Jai Shankar Prasad Singh Chauhan son of Late Devendra Singh, Resident of Mohalla East Lohanipur Flat No. 402, Ram Vilash Enclave P.S. Kadamkuan, District Patna.

... .. Petitioner/s



Versus

- 1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
- 2. The Bihar State Food and Civil Supplies Corporation, through its Managing Director, Bihar Patna.
- 3. The Managing Director, Bihar State Food and Civil Supplies Corporation, Bihar Patna.
- 4. The District Magistrate cum Chairman, District Transport Committee, Vaishali, Bihar.
- 5. The Deputy Development Commissioner cum Member, District Transport Committee, Vaishali, Bihar.
- 6. The District Manager, State Food Corporation, District Vaishali, Bihar.
- 7. Ajay Kumar, son of Girwaldhari Rai, resident of village Mansurpur, P.S. Sarai, District Vaishali.
- 8. Kalpana Kumari, wife of Rajiv Kumar, resident of village Chakrabrahim, Vishnurajkhand, P.S. Bidupur, District Vaishali.
- 9. Sita Devi, wife of Ram Narayan Rai, resident of village Manjhauli, Dharmdas, P.S. Sadar, District Muzaffarpur.
- 10. Indu Singh wife of Kamlesh Kumar, resident of village Ganjpar Bakipur Gorakh, P S Fatuha, District Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 3024 of 2024)
For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the Respondent/s : Mr. Standing Counsel 09
(In Civil Writ Jurisdiction Case No. 3838 of 2024)
For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the Respondent/s : Mr. Standing Counsel (28)
(In Civil Writ Jurisdiction Case No. 3842 of 2024)
For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the Respondent/s : Mr. Government Pleader (5)
(In Civil Writ Jurisdiction Case No. 3940 of 2024)
For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the Respondent/s : Mr. Government Advocate 05

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 10-07-2024

Heard learned counsel for the petitioners, learned counsel
for the Bihar State Food and Civil Supplies Corporation and



learned counsel for the State of Bihar.

2. All the four petitioners, who were bidders in connection with a notice inviting tender no.1081 dated 27.9.2023 advertised by the Bihar State Food and Civil Supplies Corporation Limited, Hajipur (Vaishali) for selection and empanelment of Transportation-cum-Handling Contractors for main transportation of foodgrains, though have filed separate writ applications but all of them are for identical reliefs which reads as follows:

“(i) Quashing of the decision of the District Transport Committee, Vaishali vide proceedings dated 26.12.2023 arising out of Notice Inviting Tender No.1081 dated 27.09.2023 in so far as it relates to the declaration of the private Respondent no.7 to 10 as Technically responsive notwithstanding serious disqualifications and in eligibility attached to their Technical Bid;

(ii) Quashing of the consequential decision dated 27.12.2023 contained in Letter No.1517 dated 30.12.2023 of the District Transport Committee, Vaishali by which the Financial Bid of Private Respondent No.7 to 10 has been opened, notwithstanding the fact that their Technical Bid are non responsive and should have been disqualified;

(iii) Quashing of the consequential decision of the District Tender Committee dated 20.01.2024 as communicated vide Letter No.114 dated 23.01.2024 by which without ensuring the finalization of the Tender



process arising out of NIT No.1081 dated 27.09.2023, the District Transport Committee have decided to recommend the extension of the Agreement of the erstwhile transporters for a period of six months; and

(iv) Direction upon the Respondents No.1 to consider and dispose of the objections filed by the petitioner dated 27.12.2023 (placed at Annexure P/3) against the decision of the District Transport Committee dated 26.12.2023 and 27.12.2023.

(v) Restraining the Respondents from finalizing the Tender process arising out of Notice Inviting Tender No.1081 dated 27.09.2023 during the pendency of the present writ application and/or without the leave of this Hon'ble Court."

3. The case of the petitioners in brief is that on the State Food Corporation, District Vaishali coming out with the NIT no.1081 dated 27.9.2023, the petitioners were the applicants for selection of Transporter-cum-Handling Contractor for main transportation of foodgrains. Altogether thirteen bidders participated in the tender process of which the bids of four were found to be in order while that of others were found to be defective. In spite of serious defects being noticed in the technical bids of several bidders, the District Transport Committee in its proceedings held on 26.12.2023 declared those bidders also to be technically responsive and decided to open their financial bids also. The petitioners being dissatisfied with



the decision of the District Transport Committee, submitted their objection, however without disposing of the same, the District Manager, State Food Corporation proceeded with the opening of the financial bid followed by its evaluation, declaration of the lowest bidder and forwarding the same to the headquarters for approval. A letter was issued to the successful bidders ie the private respondent nos.7 to 10 to submit their relevant documents so that agreement may be executed and work order issued. On the respondent nos.7 to 10 not responding, a final 24 hours notice was given, however ultimately no agreement was executed.

4. It is submitted by learned counsel for the petitioners that the private respondent nos.7 to 10 not submitting the documents, no agreement could be executed, however still the respondents did not take any action against them. In the meeting of the District Transport Committee, Vaishali held on 11.3.2024, the selection of the four recommended bidders in connection with NIT no.1081 dated 27.9.2023 was cancelled, the earnest money deposited was forfeited and the selection of Transporter-cum-Handling Agent (Main) recommended to be re-advertised. A fresh NIT no.723 was advertised on 8.6.2024 wherein the last date for bid submission is 11.7.2024 and date of opening of the



technical bid is 12.7.2024. Learned counsel submits that the District Transport Committee declaring the private respondents, who were not technically qualified, ignoring the material defects in their technical bids, opening of their financial bids and no action having been taken on their not turning up to execute the agreement, the petitioners have filed the instant application for the reliefs as stated herein above.

5. Subsequently, the petitioners also filed interlocutory applications praying for quashing the decision taken by the District Transport Committee, Vaishali in its proceeding dated 11.3.2024 wherein it was decided to re-advertise the work and for quashing the notice inviting tender no.723 dated 8.6.2024 inviting tender for selection and empanelment of Transporter-cum-Handling Contractors for main transportation of foodgrains.

6. A counter affidavit has been filed on behalf of respondent nos.2, 3 and 6 sworn by the District Manager, State Food Corporation, District Vaishali.

7. Learned Senior counsel appearing for the respondent nos.2, 3 and 6 submitted that pursuant to NIT no.1081 dated 27.9.2023, thirteen bidders participated in which nine bidders qualified while four were disqualified. In reference to the



counter affidavit filed, it is submitted that the petitioners and three other bidders submitted their application, however they neither appeared nor participated in the opening of the financial bid proceedings and finally the District Transport Committee, Vaishali recommended for selection of respondent nos.7 to 10 who were ready to work at the rate of L-1. Learned Senior counsel for the respondents further submits that though respondent no.7 had submitted his documents, however complaints were received regarding his character and it was also informed that as a result of several criminal cases lodged and pending against him, his character certificate had already been cancelled by the Superintendent of Police, Vaishali. Respondent nos.8 to 10 ie Kalpana Kumari, Sita Devi and Indu Singh also did not produce documents as per the NIT and thus a decision was taken by the District Transport Committee to cancel the selection of all the four private respondents and to proceed with fresh advertisement of a NIT pursuant to which NIT no.723 was advertised on 8.6.2024. It is finally submitted by learned Senior counsel appearing for the respondents that the writ petitioners and three others were not ready to work at the rate of L-1 nor did they appear at the time of opening of the financial bids.

8. Having heard learned counsel for the parties and



having perused the material on record, it transpires that pursuant to the respondents coming out with NIT no.1081 on 27.9.2023, thirteen bidders participated. The technical bid of nine bidders were found to be in order while four were disqualified. The nine successful bidders were called for opening of their financial bids on 27.12.2023 at 3 p.m. However, the four petitioners herein gave a common representation signed by all of them in writing that they would not participate in the opening of the financial bids on account of their stand that persons whose technical bids were not in order ie the bids of respondent nos.7 to 10 had been wrongly declared to be technically responsive and their financial bids were also going to be opened. It further transpires that though the four petitioners herein stated that they would not participate in the meeting when the financial bids were being opened, a decision was taken by the respondents to open the financial bids of all the nine persons. Accordingly on 27.12.2023 at 3 p.m., the financial bids of all nine including the petitioners herein and the respondent nos.7 to 10 were opened and thereafter consent was invited from the bidders of their carrying out the work at the lowest rate (L-1). It transpires that out of the five bidders who participated, the representatives of four bidders ie respondent nos.7 to 10 gave in writing their



undertaking to work at the lowest rate, slab wise. Accordingly, respondent nos.7 to 10 were selected for allotment of work. However, as inspite of repeated reminders asking the selected respondent nos.7 to 10 to furnish the documents and to enter into an agreement, either they did not furnish the required documents or did not turn up for entering into an agreement. As such, a decision was taken by the District Transport Committee of cancelling NIT no.1081 dated 27.9.2023 and to go in for a fresh tender pursuant to which NIT no.723 dated 8.6.2024 was advertised.

9. So far as the petitioners herein are concerned, this Court notes that inspite of the technical bids having been found to be in order and they being invited to participate in the opening of the financial bids on 27.12.2023 at 3 p.m., they voluntarily chose not to participate and kept away from the same. On perusal of the common representation signed by the four petitioners, which is dated 27.12.2023, it transpires that the objections raised by them were made more for the reason of delaying the process of tender reaching its conclusion and not such which prevented them from participating in the opening of the financial bids.

10. As seen above, though respondent nos.7 to 10 were



selected, however for one reason or the other, agreement was not entered into by them, which led to the District Transport Committee taking a decision to cancel NIT no.1081 dated 27.9.2023 and coming out with NIT no.723 dated 8.6.2024. The petitioners herein voluntarily not having participated in the opening of the financial bid in connection with NIT no.1081 dated 27.9.2023, now cannot be permitted to challenge NIT no.723 dated 8.6.2024, nor can they be given other relief as prayed for.

11. The Court finds no merit in these applications and all the four applications are dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.07.2024
Transmission Date	

