

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4139 of 2024

M/S Ashok Construction Through its Proprietor Ashok Kumar Rai (Male),
aged about 47 Years, Son of Sri Anirudh Rai, Resident of Village-Chitauna,
Police Station-Vijaypur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.
3. The Chief Engineer-4 (Headquarter) cum Nodal Officer (Maintenance) Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer-3, Rural Works Department, Government of Bihar, Patna
5. The Secretary to the Engineer-in-Chief, (Technical) Rural Works Department, Government of Bihar, Patna
6. The Superintending Engineer, Rural Works Department, Siwan, Government of Bihar
7. The Executive Engineer, Rural Works Division, Hathua, Dist-Gopalganj.
8. M/S Anand Mishra, through its Proprietor Anand Mishra, resident of Village Ramdas Baghi, Baghi Bazar, District- Gopalganj..

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prashant Kumar, Advocate
For the Respondent/s : Mr. Addl. Advocate General 4

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 05-03-2024

Heard the parties.

2. The petitioner claiming to be proprietor of M/s

Ashok Construction has filed the present writ petition seeking
quashing of the decision taken in the proceeding of Technical



Bid Committee Meeting held on 05.02.2024 by the Engineer-in-Chief, Rural Works Department, Government of Bihar (marked as Annexure P/7) whereby the tender submitted by the petitioner in package no. MR-N/23-24/Hathwa-02 in response to NIT No. MR-3054-06/23-24 floated under Bihar Rural Road Maintenance Policy, 2018 has been declared as disqualified.

3. The petitioner further sought a direction to reconsider the decision taken in the proceeding of Technical Bid Committee Meeting dated 05.02.2024 and take appropriate action against the respondent no. 8, who has been illegally declared successful in the Technical as well as Financial Bid by ignoring the fact that the respondent no. 8 has deliberately concealed the fact that on account of submission of forged experience certificate, the respondent no. 8 has already been blacklisted for one year, apart from his being further debarred by the Eastern Railway due to deficiency in service.

4. It is submitted that the Government of Bihar in Works Department vide NIT no. MR-3054-06/2023-24 has invited tender under the Bihar Rural Road Maintenance Policy, 2018. In response thereto, altogether three bidders including the petitioner submitted their respective bids on 19.05.2023.

5. A complaint has been preferred by the



respondent no. 8 alleging therein that the petitioner has furnished a forged document in tender in relation to package no. MR-N/23-24 Hathwa -02 dated 19.05.2023.

6. On receipt of the afore-noted complaint, a detailed report has been submitted by the Executive Engineer, Rural Works Department, explaining the allegations levelled against the petitioner, the copy of which has been produced as Annexure P/3.

7. It is also informed that the petitioner has also preferred a complaint against the respondent no. 8 with an information obtained under Right to Information Act, 2005, appraising the official respondents that earlier contracts allotted in favour of the respondent no. 8 was rescinded due to his deficiency in service and the agency was debarred from participation in re-tender of the work.

8. It is also alleged that the respondent no. 8 has participated in the bid by concealing the fact that on account of his submission of forged experience certificate, he has already been blacklisted for a year vide memo no. 4885 dated 13.09.2023 which order has also been communicated to the Rural Works Department alongwith other Government agencies, the copy of which has been marked as Annexure P/4.



9. Learned Counsel for the petitioner contended that having received all the bid documents from all the eligible bidders, the meeting of the Technical Bid Committee was held on 04.12.2023 however, only in the premise of complaint preferred by respondent no. 8, the respondent no. 2 vide its memo no. 6224 dated 07.12.2024 declared the petitioner as disqualified in technical bid whereas, the other two bidders, including the respondent no. 8 were declared as successful, against which the petitioner preferred its representation/ complaint on 10.12.2023, alleging the deliberate concealment of parties by the respondent no. 8, besides controverting all the grounds on which he has been declared as disqualified.

10. It has further been informed that in the complaint filed by the petitioner, he has specifically submitted that papers relating to apparatus being used in work such as vibrator roller, excavator, emulsion, sprayer, 125 KV generator were duly submitted alongwith tender papers with affidavit on 19.05.2023 but, the same has not been considered only because of the complaint made by the respondent no. 8. In view of the complaint filed by the petitioner as noted hereinabove, a fresh proceeding of Technical Bid Committee was again held on 05.02.2024 but it again resulted in the same fate leading to



disqualification of the petitioner in the Technical Bid, whereas two bidders were declared as successful. The copy of the said order has been brought on record as Annexure P/7.

11. Adverting to the afore-noted facts, the learned Counsel for the petitioner argued that despite the submission of the required papers relating to apparatus being used in work and the report submitted by the Executive Engineer, Rural Works Department, Works Division Hathwa vide letter no. 766 dated 22.06.2023 the petitioner has been disqualified illegally in Technical Bid and the malafide is writ large, as the authorities of Rural Works Department opened the financial bid on the same day on 05.02.2024 and having found, the respondent no. 8 has quoted lowest amount, the work has been allotted on 05.02.2024 itself.

12. The petitioner also vigorously argued that his complaint against the respondent no. 8 has not been looked into and no action has been taken against him which causes serious prejudice and heart burn to him.

13. This Court has also carefully perused the materials available on record.

14. *Prima facie*, it appears that before uploading tenders, bidders were advised to go through the general



conditions, particular conditions and the other conditions of the Mode Bidding Document (MBD) uploaded with the tender document, but the same has not been brought on record, irrespective of the fact that bid of the petitioner came to be disqualified in the light of clause 4.4B(b)(i) of the MBD. However, the record manifestly reveals that the petitioner has not submitted the documents/papers relating to apparatus required to be used in work such as Vibrator Roller, Excavator, Plate Vibrator, Emulsion Sprayer etc., and in place thereof, only affidavits in relation to the apparatus have been proffered in the bid documents, leading to cancellation of his Technical Bid by the impugned order.

15. This Court also finds that on the complaint made by the petitioner, his claim was further considered in the next meeting of the Tender Committee on 05.02.2024, however, the Committee after having found that barring affidavit, in relation to apparatus, there is no document of the apparatus required to be used in work to be allotted and, as such, the petitioner has been rightly disqualified in terms of clause 4.4B(b)(i) of the MBD.

16. Exercising the power of judicial review, this Court does not find any illegality in the impugned order which



has been passed after following the due process, disqualifying the petitioner on account of failure in producing the papers of the apparatus/machines, to be used in work.

17. So far the grievance of the petitioner with respect to respondent no. 8 is concerned, it is for the official respondent(s) to look into the matter and this Court does not want to make any comment, especially since we have not heard the 8th respondent.

18. In view thereof, this Court does not find any merit in the present writ petition and accordingly, the same stands dismissed. We make it clear that any action taken against the 8th respondent will be with due notice to him.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

supratim/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.03.2024
Transmission Date	NA

