

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4288 of 2024

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M/s. Hariom Constructions having its Principal Place of Business at Madhudih, P.O.- Sagar, P.S.- Pipra, District East Champaran, Bihar through its Partner, Akshit Kumar, Male, aged about 31 years, son of Bashisth Ram, resident of village Kamalua, P.O.- Mamrakha, P.S.- Malahi, District East Champaran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Planning and Development Department, Government of Bihar, Patna.
2. The Engineer in Chief, Planning and Development Department, Government of Bihar, Patna.
3. The Chief Engineer, Local Area Engineering Organization, Patna, Department of Planning and Development Department, Government of Bihar, Patna.
4. The Executive Engineer, Local Area Engineering Organization, Works Division -1, Motihari, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prabhat Ranjan, Advocate

For the Respondent/s : Mr.Government Advocate 5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-03-2024

The petitioner's contention is with respect to the



disqualification made in the technical bid not being one, which can be justified.

2. Learned counsel for the petitioner submits that the petitioner had uploaded the character certificate as required in the Notice Inviting Tender (NIT) as per Annexure- P/5 which was dated 05.09.2023 and current, when the bid was to be opened on 10.01.2024; i.e., within the period of six months. The specific condition in Clause 28 is also pointed out from Annexure-P/1.

3. Learned Government Advocate, however, points out that the petitioner in his own letter has admitted that he is the first partner and the partner who is implementing the work is yet another person.

4. Learned counsel for the petitioner, however, points out from the judgment at Annexure- P/7 that the letter of the Home Department does not speak of character certificate being issued to different partners.

5. Admittedly, Clause 28 reads as under:

Character certificate issued by District Police must be uploaded as per letter no.-29 dated- 25.01.2021 of Home Department, Govt. of Bihar.

6. The character certificate should be of the persons



applying and in the present case, the applicant is a partnership firm. Even according to the petitioner as per Exhibit P/3, there are three partners in the firm in which the first petitioner is the person who has produced the character certificate at Annexure-P/5. The executing partner is one Gautam Rana and there is also one other partner. When a partnership applies under the NIT, necessarily, the clause has to be read in such a manner as to make it effective. All the partners or at least the implementing partner should produce the character certificate.

7. Insofar as the contention with respect to the letter of the Chief Secretary, we have to first notice that it is the Planning Department which has issued the NIT. The character certificate has to be complied with, as is available in the NIT and not on the basis of the letter issued by the Chief Secretary. In that case the tender notification clearly indicated that the Chief Secretaries communication would be followed.

8. Yet another contention was raised that the representation was replied to by Annexure-P/8 without any reasons stated.

9. Considering the fact that the reason stated in the original order disqualifying the petitioner discloses that it is for reason of non- compliance of Clause 28, we find that there is



absolutely no reason to send back the matter for reconsideration
of the representation.

10. We dismiss the writ petition.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Anushka/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.03.2024
Transmission Date	

