

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4750 of 2024

Pratap Kumar, S/o Rajnandan Singh, Resident of Village - Gajraj Bigha, P.O.
- Machhaldiha, P.S. - Nalanda, Machhardiha, District - Nalanda.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Vishshesaraiya Bhawan, Bihar, Patna.
2. The Chief Engineer, Building Construction Department , Bihar, Patna.
3. The Chief Engineer-cum-Dy. Commissioner-cum-Special Secretary, Building Construction Department, Bihar, Patna.
4. The Internal Financial Advisor, B.C. Department, Bihar, Patna.
5. The Superintending Engineer, Patna Bhawan Anchal, Building Construction Department, Bihar, Patna.
6. The Executive Engineer, Path Pramandal, Biharsharif, Nalanda.
7. The Executive Engineer, Nalanda Bhawan Pramandal, Biharsharif, Nalanda, namely, Ajay Kumar Verma.
8. Jay Prakash Kumar, Resident of Village- Sabalpur, P.S. - Rajgir, District- Nalanda.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Satya Prakash Sinha, Advocate
For the Respondent/s : Mr. Standing Counsel (3)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 18-03-2024

Heard the parties.

2. The petitioner by invoking the prerogative writ jurisdiction of this Court under Article 226 of the Constitution of India, seeks quashing of the Memo No. 380(P), Patna, dated



23.02.2024, issued in the light of the decision taken by the Departmental Tender Committee, whereby and whereunder the Committee has found the petitioner's tender non-responsive in technical bid on account of the fact that on the last date of submission of the tender on 09.01.2024, the petitioner had his contract registration under both category-III and IV.

3. The petitioner in response to the e-Tender issued by the Building Construction Department, Government of Bihar for repair/renovation work of Rajkiya Dr. B.R. Ambedkar Girls Hostel Building at Rajgir, submitted his bid on 08.01.2024 along with the required tender documents. He also submitted a copy of the certificate of registration of Class-III contractor before the Executive Engineer, Nalanda Division, Bihar Sharif, informing him that after filing the application for cancellation of his registration of Class-IV contractor, he got his registration as Class-III contractor from Building Construction Department, Government of Bihar. A copy of the application dated 03.01.2024 addressed to the Executive Engineer, Road Division, Government of Bihar, for cancellation of his registration of Class-IV contractor, was also submitted along with the necessary papers. After completion of all the paraphernalia, the matter was placed before the Departmental Tender Committee.



However, a complaint was filed on behalf of respondent no.8, alleging therein that the registration of the petitioner as Class-IV contractor was valid up-to 15.10.2027 and the petitioner without surrendering the same in accordance with the rule has participated in the tender showing his registration as Class-III contractor, when the application for cancellation of his registration of Class-IV contractor was accepted by the Office Order No.72 dated 20.01.2024.

4. In view of the aforesaid complaint, the Technical Bid Committee inquired into the matter and after having found substance in the complaint that on the last date of submission of bid, the petitioner was having registration under both Class-III and IV and, thus, in the light of the aforesaid facts, the technical bid of the petitioner was found to be non-responsive and, accordingly, the petitioner declared unsuccessful.

5. Learned counsel for the petitioner, vigorously argued that the petitioner had already submitted application for cancellation of his registration as Class-IV contractor on 03.01.2024, the copy of which has been produced as Annexure-1 to the writ petition and he got his registration no. 3240008 dated 04.01.2024 for Class-III contractor from the Building Construction Department, Government of Bihar, Patna, which



certificate of registration issued in his favour was valid from 04.01.2024 to 03.01.2029. Thus, the date on which the petitioner submitted his tender, he was only registered as a Class-III contractor and fully eligible to be considered for the tender floated by the department and, as such, holding his technical bid non-responsive, is wholly unjustified and illegal. A submission has also been made that the application for cancellation of his registration as Class-IV and further registration under Class-III category candidates were placed before the authorities concerned, thus, there has never been any suppression of material facts. Moreover, in case of any up-gradation from Class-IV category contractor to Class-III category contractor, the registration of lower category contract itself gets cancelled.

6. Having heard the learned counsel for the parties and after carefully perusing the materials available on record, *prima facie*, from the e-tender, especially Clause 10 thereof, it appears that there is a clear requirement that the contractor must be duly registered under the appropriate category with the Building Construction Department and admittedly the petitioner was registered as Class-IV contractor and, for the first time, he filed his application for cancellation of such registration on 03.01.2024.



7. Needless to observe that mere filing of any application, does not automatically cancel the registration unless there is specific order of cancellation. The impugned order clearly reveals that the registration of the petitioner as Class-IV contractor was cancelled by the Office Order No. 72 dated 20.01.2024. Thus, on the last date of submission of the tender i.e. on 09.01.2024, the petitioner was registered under both Class-III and IV contractor.

8. The case of the petitioner is based upon admitted facts that he got his registration with Class-III contractor done on 04.01.2024 and his registration of Class-IV contractor was cancelled on 20.01.2024 by the Executive Engineer, Road Division, Bihar Sharif. As such, in any view of the matter, the Departmental Tender Committee has rightly come to the conclusion that the petitioner being registered under both Class-III and IV contractor, his technical bid was not fit to be considered. In such circumstances, this Court does not find any infirmity in the impugned order declaring the petitioner as unsuccessful after having found his technical bid non-responsive.

9. In view of the aforesaid facts, this Court while exercising power of judicial review does not find any error in



the decision making process leading to the order passed by the Departmental Tender Committee. Accordingly, the present writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21-03-2024
Transmission Date	

