

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5765 of 2024**

Realty Advance Structure Enterprises Pvt. Ltd. having its Principal place of business at 2nd Floor, 955, Maurya Path, Khajpura, Near Pillar No.-15, Bailey road, Patna, Bihar-800014, through its Director Dharmendra Kumar, S/o- Ashutosh Kumar, aged about 47 years (Male), resident of Vill- Chhakubigha, Post- Kanap, P.S.- Haspura, Dist-Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer in Chief, Rural Works Department, Government of Bihar, Vishweraiya Bhawan, Bailey Road, Patna.
4. Chief Engineer, Rural Works Department, Government of Bihar, Vishweraiya Bhawan, Bailey Road, Patna.
5. The Superintending Engineer, Rural Works Department, Work Circle, Darbhanga.
6. The Executive Engineer, Rural Works Department, work Division, Biraul.
7. Technical Bid Committee through its chairman-cum-Superintending Engineer, Rural Works Department, Work Circle, Darbhanga.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Kundan Kumar Ojha, Advocate  
For the Respondent/s : Mr. Anirban Kundu, SC - 24

**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE HARISH KUMAR**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 08-04-2024**

The petitioner is before this Court alleging that despite the petitioner having been found responsive in the tender, along with two others, the petitioner was disqualified without any opportunity of hearing.



2. The learned Counsel for the respondents submits that one Jadubansh Kumar Singh, who was another responsive bidder, had filed a complaint based on which the rejection was made.

3. The petitioner has not impleaded the person who has made the complaint, despite raising a contention that before disqualification was made, there was violation of principles of natural justice. In any event, we specifically look at the complaint raised which was of violation of Clause 4.2 (a) and Clause 4.7 (i). Clause 4.2 (a) indicates that the original documents defining the constitution or legal status, place of signatory of the Bid, to commit the Bidder, has to be produced.

4. The specific contention taken is that the Director, who signed the document was not specified as a Director on the Registrar of Companies website. Obviously, no original documents were also filed indicating the person who has signed the document.

5. The learned Counsel for the petitioner would take us to page 37, wherein two Directors are indicated; one Mukesh Kumar and the other Smita Kumari. The learned Counsel for the petitioner contends that Mukesh Kumar has signed the tender but, there is no pleading to that effect. In fact, in the writ



petition, at the cause title one Dharmendra Kumar styled himself as Director of the petitioner, whose name does not figure in the documents produced by the petitioner.

6. The petitioner’s bid has been rejected since the person who signed the document on behalf of the bidder was not competent to commit the bidder to the requirements of the NIT and the agreement to be entered into. This goes to the root of the matter and hence there is no valid reason to invoke the extraordinary, discretionary remedy of Article 226.

7. Since there is non-joinder of necessary parties and absolute lack of pleadings, the writ petition stands dismissed.

**(K. Vinod Chandran, CJ)**

**(Harish Kumar, J)**

Anjani/-

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