IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7967 of 2024

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Jitendra Jha, Son of Late Krishna Bhagwan Jha, Resident of village- Jhakhra, Police Station- Sarai Ranjan, District- Samastipur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Food and Civil Supply Department, Government of Bihar, New Secretariat, Patna.
3. The District Magistrate, Samastipur.
4. The District Magistrate cum Chairman, District Transport Committee, Samastipur.
5. The District Transport Officer, Samastipr.
6. Bihar State Food and Civil Supply Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R-Block, Road No. 2, Patna through its Managing Director.
7. The Managing Director, Bihar State Food and Civil Supply Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R-Block, Road No. 2, Patna.
8. The Managing Director cum Chairman, Headquarter Transport Committee, Bihar State Food and Civil Supply Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R-Block, Road No. 2, Patna.
9. The General Manager (public distribution), Bihar State Food and Civil Supply Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R-Block, Road No. 2, Patna.Bihar State Food and Civil Supply Corporation Ltd., Samastipur.
10. The District Manager, Bihar State Food and Civil Supply Corporation Ltd., Samastipur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeet Kumar, Advocate
For the Respondent/s	:	Mr. Government Pleader (18)
For the BSFC	:	Mr. Anjani Kumar, Sr. Advocate
		Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-06-2024

The petitioner is aggrieved with the disqualification of a tender, he submitted before the respondent Bihar State Food and Civil Supplies Corporation Limited. Annexure-P/2 is the Notice Inviting Tender by which Door-Step Delivery Transporters were invited.

2. There were six transporters to be appointed as per the Tender notice and each tenderer bidding, was obliged to submit 25 vehicles of which three were to be registered in their own names.

3. In the present case, the petitioner's Technical Bid was disqualified on two grounds. One, that the Chartered Accountant's certificate did not have the mandatory UDIN number generated, which is the requirement insisted upon by the Institute of Chartered Accountants of India for all certificates and reports issued by Chartered Accountants, registered with the Institute. The petitioner's certificate did not contain such an UDIN number.

4. The next ground was that one of the vehicles submitted, BR01GL-2004, was in the possession of one Arvind Kumar Chaudhary, as submitted before the technical bid committee by the registered owner. It was his submission that the possession of such a vehicle was not handed over to the petitioner herein for plying the same.

5. Learned Counsel for the petitioner points out from Annexure-P/9 that a UDIN number was generated by the Chartered Accountant while issuing the Certificate of Financial Turn Over. It is also submitted that later on, the registered owner of BR01GL 2004 had submitted before the District Transport Officer that it was by an inadvertent omission that he failed to mention the possession of the vehicle BR01GL 2004 handed over to the petitioner herein.

6. Mr. Anjani Kumar, learned Senior Counsel, however, resisted the same on the ground that the technical bid sheet itself requires an audit certificate to be produced, with the UDIN number and Annexure-P/9 is only a Certificate of Financial Turn Over. It is also submitted that there was no agreement evidencing possession of BR01GL 2004.

7. In so far as the disqualification based on the non-generation of UDIN number, we see from the technical bid sheet that the requirement was the production of annual financial turn-over of last three years, which should be audited by a Chartered Accountant, which does not speak of the audited balance sheet or other documents to be produced.

8. In the present case, Annexure-P/9 is produced, which is a certificate of financial turn-over for the years 2019-

2020 to 2022-2023. There is also no requirement as we discern, that the certificate should be issued by the person, who audited the accounts of the petitioner for the last three years. The certificate issued is of the turn-over, and is by a Chartered Accountant and there is generation of UDIN number, as is evident from Annexure-P/9. We find the said ground raised for disqualification to be not sustainable.

9. The next ground raised is in so far as one of the vehicles preferred, not being in the possession of the petitioner. In fact, the technical bid committee had video-graphed and recorded the submission of the registered owner that he had not handed over the possession to the petitioner and that there was an agreement handing over possession of the said vehicle to a third-party. Mere submission of the registered owner before the District Transport Officer that he had forgotten the handing over of possession to the petitioner is just a self-serving submission made without any substantiation.

10. Even now no agreement is produced before Court evidencing the possession of the vehicle. The same was also not submitted along with the tender documents. We also see that the registered owner of the vehicle has not been impleaded in the present writ petition.

11. The next submission of the learned Counsel for the petitioner is that as against 25 vehicles, he had submitted 28 vehicles and it was incumbent upon the respondent to substitute one of the vehicles, for the vehicle on which a defect was found. We cannot accept the said contention.

12. In a tendering process, when certain number of vehicles is directed to be submitted, whatever be the number of vehicles submitted, all such vehicles should comply with the terms and conditions of the tender. The petitioner cannot ask one of the vehicles to be substituted by another, if one of the vehicles is found to be not in accordance with the terms and conditions of the tender documents.

13. We, hence find the second ground raised against the petitioner to be valid and dismiss the writ petition.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.06.2024
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