

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7370 of 2023

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M/S Vijay Engineering Works Having its registered office in front of Veer Kunwar Singh University Campus, Katira, Ara, Bhojpur - 802301, through its Proprietor namely Satyendra Kumar Sharma, Male, aged about 55 years, S/o Sri Ram Pujan Sharma, R/o V.K Singh university Campus, P.S- Ara Nawada, District- Bhojpur, Pin-802301 ... Petitioner

Versus

1. The State of Bihar Through Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Executive Director, State Health Society, Bihar, Patna.
4. The District Magistrate cum Chairman, District Health Society, Jamui.
5. Civil Surgeon cum Member Secretary, District Health Society, Hospital Campus, Jamui.
6. The Deputy Development Commissioner Cum Deputy Chairman, District Health Society, District- Jamui.
7. M/s Singh Services, Nalanda through its Proprietor, Pankaj Kumar.
8. M/s Sambhu Yadav, Bithalpur, Jamui.
9. M/s Pankaj Kumar, Vishwanath Nagar, Begusarai. ... Respondents

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Appearance :

For the Petitioner : Mr.Ravindra Kumar, Adv.
For the State : Mr.S.D. Yadav, AAG IX
For Respondent no. 3 : M/s K.K. Sinha & Shashi Shekhar, Advs.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

9 23-04-2024 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

I. For setting aside Memo no. 1414 dt. 21.12.2022 (Annexure- 3) by which the tender committee selected and declared Respondent no. 7 to 9 as L-1 for Cleaning/Housekeeping, Dietary services and Laundry respectively. 3



II. For direction to respondent authorities to consequently direct the respondents to process the case of petitioner for award of contract in favour of the petitioner and issue the work orders.

III. For issuance of other appropriate writ/writs, order /orders, direction/directions for which the petitioner is found entitled to in the facts and circumstances of this case.

3. Learned counsel appearing on behalf of the petitioner has stated that pursuant to the tender issued by the respondent-authorities, the petitioner had participated in the tender and quoted his bids for the various works. Learned counsel has stated that subsequently on verification of the prices quoted by the private Respondent No. 7, it was found that the rates quoted by the Respondent No. 7 were higher than that of the petitioner. Though the prices quoted by the petitioner were less than the ones quoted by the Respondent No. 7, the authorities for the reasons best known to them have awarded the contract to the Respondent No. 7 and rejected the bid of the petitioner. Learned counsel has stated that the authorities without putting the petitioner on notice or giving him an opportunity of submitting his explanation have passed the impugned memo rejecting the bid of the petitioner. That the



said memo is against the principles of natural justice and equity as the same is passed without putting the petitioner on notice or granting him opportunity of submitting his explanation. Learned counsel has taken the Court through the various documents filed by both the parties to show that the price quoted by the petitioner are less than the price quoted by the Respondent No. 7. Further, it is stated that the petitioner is interested in item nos. 1, 3, 10 and 12 to 20 and prayed this Hon'ble Court to allow the present Writ Petition and set aside the tender processes and also the Memo No. 1414, dated 21.12.2022, impugned in the present CWJC.

4. Per contra the learned counsel appearing on behalf of the respondents as well as the private Respondent No. 7 have vehemently opposed the very maintainability of the present Writ Petition. Learned counsel has stated that there are disputed questions of facts which cannot be gone into by this Court sitting under Article 226 of the Constitution of India. Further, it is argued that the authorities duly taking into consideration the terms and conditions of the NIT have rejected the bid filed by the petitioner particular Clause 14.2.6 of the bid document. Further, it is stated that the representative of the petitioner-Company had appeared before the authorities and stated that the



rates quoted by the petitioner were low and it was not practicable to execute the works for the rates that were quoted. Therefore, learned counsel for the Respondent No. 7 while adopting the arguments made by the counsel for the respondent-authorities has stated that the Respondent No. 7 has been issued the work contract and he has been executing the work since last more 1½ years. Learned counsel has further stated that the contract period will end in the month of November, 2024, and, therefore, no useful purpose would be achieved if the selection of the Respondent No. 7 is set aside. Further, it is stated that the services rendered by the Respondent No. 7 are in the health care department and if there is any disruption in the work entrusted, the general public will be to a great inconvenience and, therefore, prayed for dismissing the CWJC.

5. Admittedly, in the present case the petitioner as well as the Respondent No. 7 have participated in the tender called for by the authority concerned. The tender was for the purpose of maintaining and cleaning the hospital premises in the following areas.

जिला स्वास्थ्य समिति, जमुई।

DISTRICT HEALTH SOCIETY, JAMUI



साफ-सफाई/हाउस किपिंग

क्रमांक	संस्थान का नाम	दर/प्रति माह (GST) छोड़कर	अभियक्ति /
1.	सदर अस्पताल, जमुई	12,20,500=00	
2.	रेफरल अस्पताल, चकाई	3,87,000=00	
3.	रेफरल अस्पताल, लक्ष्मीपुर	3,87,000=00	
4.	रेफरल अस्पताल, झांझा	3,87,000=00	
5.	समुदायिक स्वास्थ्य केन्द्र, सोनो	3,87,000=00	
6.	समुदायिक स्वास्थ्य केन्द्र, खैरा	3,87,000=00	
7.	समुदायिक स्वास्थ्य केन्द्र, सिकन्दरा	3,87,000=00	
8.	समुदायिक स्वास्थ्य केन्द्र, गिद्धौर	3,87,000=00	
9.	प्राथमिक स्वास्थ्य केन्द्र, सदर प्रखंड, जमुई	2,37,100=00	
10.	प्राथमिक स्वास्थ्य केन्द्र, ई0 अलीगंज	2,37,100=00	
11.	प्राथमिक स्वास्थ्य केन्द्र, बरहट	2,37,100=00	
12.	अतिरिक्त प्राथमिक स्वास्थ्य केन्द्र, सेवा गिद्धौर	63,500=00	
13.	अतिरिक्त प्राथमिक स्वास्थ्य केन्द्र, मलयपुर, बरहट।	63,500=00	
14.	अतिरिक्त प्राथमिक स्वास्थ्य केन्द्र, सिमुल्लतला, झांझा	63,500=00	
15.	अतिरिक्त प्राथमिक स्वास्थ्य केन्द्र, आढा, ई0 अलीगंज	63,500=00	
16.	अतिरिक्त प्राथमिक स्वास्थ्य केन्द्र, बटिया, सोनो	63,500=00	
17.	अतिरिक्त प्राथमिक स्वास्थ्य केन्द्र, केवाल फरियता, खैरा	63,500=00	
18.	अतिरिक्त प्राथमिक स्वास्थ्य केन्द्र, दुल्लमपुर	63,500=00	
19.	अतिरिक्त प्राथमिक स्वास्थ्य केन्द्र, महादेव सिमरिया, सिकन्दरा।	63,500=00	
20.	अतिरिक्त प्राथमिक स्वास्थ्य केन्द्र, हरणारायणपुर, जमुई।	63,500=00	

6. It is necessary for this Court to give a comparative chart of the rates quoted by both the petitioner as well as



Respondent No. 7 for the following items of the tender :

SINGH SERVICES			Respondent No. 7		
			Disinfectant and other	Service Charge	Total
1	SADAR HOSPITAL	100 BED	25015.7	1200	12,20,500
2	CHC/REFERRAL	30 BED	10086.2	1000	3,87,000
3	PHC	6 BED	3044	500	2,37,100
4			965.06	100	63,500
VIJAY ENGINEERING WORKS			Petitioner		
			Disinfectant and other	Service Charge	Total
1	SADAR HOSPITAL	100 BED	5971	119	12,00,362
2	CHC/REFERRAL	30 BED	1879	37	3,77,827
3	PHC	6 BED	5838	5838	2,45,230
			1249	6	63,689

7. Even though the learned counsel for the respondent-authorities has stated that as per Clause 14.2.6 of the NIT the authorities are empowered to reject the bid, even in cases where the rates quoted are lower than the next higher bidder and the same was followed in this case. It is necessary to extract the above said clause 14.2.6 for better understanding the case on hand . Rule 14.2.6 reads as under :

“14.2.6 : Financial bid will be compared with the minimum base charge fixed for each kind of hospital by the committee. Minimum base charge can be obtained from district website/ DHS, Jamui. If any bidder quotes charges lower than 10% of charges fixed by the committee then bidder will have to make presentation before the committee to justify the



charges quoted by him/her. However the committee finds the presentation unsatisfactory and practically unacceptable, financial bid may be rejected and need not be considered.”

8. The reading of the above clause reveals that unless and until there is a variation of 10% in the rates quoted between one bidder and next bigger bidder the authorities cannot reject the bid of the lowest bidder. In this particular case as seen from the comparative chart, the variation between rates quoted by the petitioner and the Respondent No. 7 is not more than 2%, therefore, the stand taken by the authorities that they have relied on Clause 14.2.6 for rejecting the bid of the petitioner is factually not factually. When there is no difference of 10% as claimed by the authorities the question of rejection of the bid of the petitioner does not arise. In the impugned Memo it is stated that a representative of the petitioner was present during the deliberation and he has expressed that the rates quoted by the petitioner was very less and impractical for the bidder to complete the works stipulated in the tender, however, it is to be noted that the authorities have not produced any proof to show that the petitioner was put on notice and the name of the representative has not been stated in the said Memo or in the



counter affidavit. The authorities while evaluating the bids tendered by parties have to be act in a fair and transparent manner by adhering to the terms and conditions of the tender document of NIT. They cannot simply reject the bids as per their whims and fancies only to suit the bidder of their choice. In this particular case as evident from the record the authorities have rejected the bid made by the petitioner in an arbitrary manner without there being any valid reason to do so. The stand taken by the authorities that there is a variation of 10% and as per the Clause 14.2.6 they are entitled to reject is factually incorrect.

9. Therefore, this Court has no other option, but, to set aside the selection of Respondent No. 7 and direct the authorities to call for a fresh tender. However, taking note of the fact that the tender has been invited for the purpose of maintaining and cleaning the premises of the hospital which cannot be stopped abruptly as the health of the general public will be effected. This Court is of the opinion that the ends of justice would be met if the authorities are directed to issue a fresh tender for the above mentioned items and call for fresh bids. The authorities are directed to complete the entire tender process within a period of 8 weeks from the date of receipt of a



copy of this order. Till such time the new tenders are called and work orders issued in favour of the successful bidder, the Respondent No. 7 shall continue to work. It is also made clear that under the guise of this direction the authorities cannot delay the tender process and waste time. Any attempt to delay the matter will be taken seriously by this Court and attract stringent action.

10. With the above directions, this Writ Petition is **allowed** to the extent indicated.

(A. Abhishek Reddy , J)

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