

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9146 of 2024

M/s Valiance Trading Pvt Ltd. a company incorporated under Companies Act, 1956, having its registered office at Madhavpuram, Sarvoday Nagar Anaith, Ara 802301, Bihar, India, through its Managing Director namely Santosh Kumar Singh @ Santosh singh (DIN 07448109), aged about 44 years (Male), S/o Vikrama Singh, R/o Dhanchua, khudru P.O. - Khudru, P.S. - Dinara, District - Rohtas, Bihar - 821112.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Food and Consumer Protection Department, Government of Bihar, Patna.
2. State Food and Civil Supplies Corporation Limited, through Managing Director, Bihar State Food and Civil Supplies Corporation, 5th Floor, Sone Bhawan, Patna.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Bhojpur.
4. District Transport Committee, Bhojpur, through its Secretary.
5. The District Officer, Bhojpur cum Chairman of District Transport Committee, Bhojpur.
6. The District Manager, Bhojpur- cum of Secretary of District Transport Committee, Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ravi Shankar Sahay, Advocate
For the State	:	Mr. Government Advocate (5)
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 PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-11-2024

The petitioner is a company, which is aggrieved with the disqualification made on the ground that the character certificates issued in favour of the directors, one Santosh Kumar Singh, son of Birendra Singh and Suraj Pratap Singh, son of Lalan Singh; were issued without noticing the criminal case pending against them.

2. The learned Counsel for the petitioner points out that there is no specification in the N.I.T; which is produced as Annexure P-1, that a character certificate of the director should be issued and that wherever the director has to disclose his affairs, it has to be done by an affidavit, as per Clause 8(iii) of the N.I.T. Further, it is submitted that with respect to Suraj Pratap Singh, son of Lalan Singh, this Court had interfered with the disqualification issued against him finding that the Superintendent of Police, Bhojpur, who issued the certificate and cancelled; it behind the back of the petitioner, again issued a character certificate as is required under the N.I.T. The judgment was in CWJC No. 13224 of 2024 (Suraj Pratap Singh vs The



State of Bihar) dated 04.10.2024, which is also produced across the Bar. The further contention is that Santosh Kumar Singh, son of Birendra Singh had resigned from the company as per Annexure P-8 and a new Managing Director, Santosh Kumar Singh, son of Vikrama Singh, is appointed as the Managing Director, who has been issued with a character certificate.

3. Admittedly, the tender was submitted by Santosh Kumar Singh, son of Birendra Singh, who was the Managing Director; at the time of submission of the tender document.

4. Clause 8 (vii) reads as under :-

“(vii) Residential and character certificate issued by District Magistrate and Superintendent of Police respectively along with self attested passport size photo and Sample signature of bidder.”

The Character certificate to be issued by the Superintendent of Police with an attested passport photograph is essentially of the directors since there can be no such certificate issued in the name of the company. In fact along with the writ petition, the petitioner has produced the character certificate of Santosh Kumar Singh, Son of Late Birendra Singh dated 08.07.2023 (page no.52) accompanying Annexure P-3. The guarantee bond has also been issued by the very same Managing Director. The



tender hence was submitted by Santosh Kumar Singh, son of Birendra Singh on behalf of the Company; of which he was the Managing Director. The resignation as per letter dated 12.01.2024 produced as Annexure-P-8 is inconsequential since it was after the submission of the tender.

5. The judgment in the case of Suraj Pratap Singh also would not be applicable since therein the Superintendent of Police had cancelled the character certificate issued and restored it later.

6. In the present case, admittedly, Santosh Kumar Singh, son of Birendra Singh, who was the Managing Director, submitted the tender document and he was involved in a murder case and the character certificate issued was not in order.

7. In such circumstances, especially since the cancellation of the character certificate has been effected by the Superintendent of Police, there is no ground to interfere with the disqualification.

8. The learned Counsel for the petitioner wanted to further urge the principles of proportionality; which request we declined, since such principles have no application on the disqualification visited on the petitioner in a competitive tender, which is not a penalty imposed and is only the consequence of



the essential requirements of the N.I.T not being satisfied.

9. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.11.2024
Transmission Date	

