

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10031 of 2023

Vaishnavi Buildtech Pvt. Ltd., through its Managing Director, namely, Hari Om Kumar, aged about 44 Years, Gender-Male, Son of Late Yogi Singh, Permanent resident of Ward No. 16, Sakarwar Tola, Police-Station-Mokama, District-Patna, Presently Working as Managing Director of Vaishnavi Buildtech Pvt. Ltd., having its registered Office at Flat No. 101, Haldhi Estate, bank Road, Patna-800001.

... .. Petitioner/s

Versus

1. The Bihar Police Building Construction Corporation, through its Chairman-Cum-Managing Director, Kautilya Nagar, Patna-800014.
2. The D.G.P.-Cum-Chairman-Cum-Managing Director, Bihar Police Building Construction Corporation, Kautilya Nagar, Patna-800014.
3. The Inspector Genral of Police, (Modernisation), Bihar, Patna.
4. The Commandant, B.S.A.P-5, Patna.
5. The Chief Engineer, Bihar Police Building Construction Corporation, Kautilya Nagar, Patna-800014.
6. The Superintending Engineer, Work Circle, Bihar Police Building Construction Corporation, Kautilya Nagar, Patna-800014.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. D.K. Sinha, Advocate Mr.Ranjit Kumar Singh, Advocate
For the Respondent/s	:	Mr.Prasoon Sinha, Advocate

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

Date : 25-06-2024

The petitioner is concerned with the re-tender issued at Annexure-P/2 in the writ petition. On Admission, a



Division Bench had also granted an order of restrain from proceeding with the re-tender dated 26.06.2023 (Annexure-P/2).

2. We have heard Mr. D.K. Sinha, learned Senior Counsel for the petitioner and Mr. Prasoon Sinha, learned Counsel for the respondents.

3. The contract was initially issued for construction of a Police Station at Mokama as per Annexure-P/1. The petitioner was one of the persons who applied under the same. The petitioner's contention is that he was selected but later Annexure-P/2 was issued in which tenders were invited, for the construction of several police stations including the one notified as per Annexure-P/1. The petitioner approached this Court alleging that he was granted the contract and there was no reason for a re-tender, based on which on a *prima facie* consideration a restrain order was passed interdicting further action on Annexure-P/2.

4. Learned Counsel for the respondents, however, points out that the petitioner was disqualified on the basis of suppression of material facts relating to blacklisting ordered



against the petitioner. The learned Senior Counsel appearing for the petitioner, however, submits that the blacklisting was set aside by an order.

5. We see that Annexure-P/1 was a Notice Inviting Tender dated 18.05.2022, wherein, the tenderers were required to submit their tenders by 18.05.2022. The specific contention taken by the respondents is that the petitioner was disqualified for making a false statement. The petitioner had been debarred during the relevant period which had not been put forth in the sworn affidavit filed by the petitioner along with the tender. It was for the reason of the blacklisting order having not been disclosed that the petitioner was disqualified. It is clear from Annexure-R1/J the Standard Bidding Document as per Clause 4.8 that even if the bidders achieve the qualifying criteria, if any misleading or false representation in the forms, statements and attachments submitted in proof of the qualification of requirements is made, there can be a disqualification. Annexure-R1/N is the affidavit submitted by the petitioner along with the tender which does not disclose the blacklisting.



6. We have noticed the contention of the petitioner that the blacklisting has been set aside as per Annexure-P/11 which is dated 14.09.2023. Hence, it an admitted fact that the petitioner was blacklisted and as on the date of submission of the tender i.e. 18.05.2022 as per Annexure-P/1, there was a blacklisting order imposed which was not disclosed by the petitioner in the affidavit filed, which is produced as Annexure-R1/N.

7. We have also seen Annexure-P/13 referred to by the learned Senior Counsel for the petitioner which is not a work order but only the comparative quotes having been considered by the Evaluation Committee and there was only a recommendation to consider the case of the petitioner. We also take note of the submission that there is no order cancelling the allotment, on the disqualification alleged. Annexure- P/5 is the order of cancellation of the Notice Inviting Tender for unavoidable reasons. True, there is no reason stated but since a new NIT was issued the petitioner could as well have applied under the same. There is no cause shown to direct continuation of the proceedings under Annexure-P/13 since the petitioner had suppressed material



facts and he cannot thus invoke the equitable jurisdiction under Article 226 of the Constitution of India. The respondents would be entitled to proceed under Annexure-P/2 or issue a fresh NIT.

8. In the above circumstances, the petitioner has absolutely no cause to challenge Annexure-P/2 notification. We hence reject the writ petition.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

