

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10787 of 2024

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1. Bihar Rajya Pustak Vyawasayi Sangh through its Secretary Amarendra Kumar Jha, Male, aged about 71 years, Son of Late Tara Nand Jha, Near Dinkar Bhawan, Bankipore, Bihar, 800004.
 2. Ashutosh Pandey, Son of Shriprakash Pandey, B 1/162, Assi, P.S Assi, District Varanasi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resource Department, Govt. of Bihar, Patna.
2. The Union of India through the Secretary, Ministry of Education, New Delhi.
3. The Director, Indian Institute of Information Technology, Bhagalpur, BCE Campus, Sabour, Bhagalpur, Bihar- 813210.
4. The Registrar, Indian Institute of Information Technology Bhagalpur, BCE Campus, Sabour, Bhagalpur, Bihar- 813210.
5. The Professor In-charge Library, Indian Institute of Information Technology Bhagalpur, BCE Campus, Sabour, Bhagalpur, Bihar-813210.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shakti Suman Kumar, Advocate Ms. Maria Nazir, Advocate Mr. Rajesh Ranjan, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, Advocate General Dr. Krishna Nandan Singh (ASG)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)



Date : 22-07-2024

The petitioner is aggrieved with the two conditions in the tender floated by the respondent-Institute. Annexure-1 is the Notice Inviting Tender and the petitioner is aggrieved by the condition of minimum average turnover of Rs. 300 Lacs for every tenderer, making an application and the provision for a demand draft of Rs. 2 Lacs in the form of security deposit in favour of the Institute.

2. Learned Counsel for the petitioner submits that the General Financial Rules-2017 brought out by the Ministry of Finance, Department of Expenditure Procurement Policy Division, Government of India insist that the total contract amount be stated and the performance security to be only 3 to 5 percent of the total amounts, as amended in 2024 by Office Memorandum dated 01.01.2024. It is also submitted that the annual turnover of Rs. 300 Lacs for threshold eligibility is fixed without any rationale.

3. We cannot but observe that the General Financial Rules-2017 are only intended as guidance; which is only directory and not mandatory. It has also to be noticed that the Office Memorandum handed over to us with the revised Rules specifically speaks of *“performance security, in respect of*



procurement only of Goods/Consultancy Services/Non Consultancy Services, should be for an amount of 3 to 5 per cent.”(sic)

4. The specific NIT issued by the respondent-institute is for empanelment of vendors for supply of printed books to the Institute’s Library. The contract is for three financial years which can be extended for another two years. The total contract amount is not mentioned, since obviously it cannot be anticipated as of now. The requirement would depend upon the development in academics and also the individual requirement for the various courses and those required for general consumption. Further, there is no specific purchase intended by the tender and it is only for empanelment.

5. The provision of Rs. 2 Lacs of demand draft is only to ensure that the empanelled agencies supply books in accordance with the orders and without delay; if they succeed eventually and are empanelled. The provision of Rs. 300 Lacs of minimum average annual turnover as a threshold qualification cannot also be considered to be onerous or irrational; looking at the empanelment which is for a period of three years and the requirement being of the supply of books as required by the Library.



6. We find absolutely no reason to entertain the writ petition and dismiss the same *in limine*.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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

