

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13224 of 2024

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Suraj Pratap Singh Son of Lalan Singh Resident of Narayanpur, P.S.
Narayanpur, District Bhojpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Bihar State Food and Civil Supplies Corporation, through its Managing Director.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation, Government of Bihar, Patna.
4. District Magistrate Cum Chairman, District Transport Committee, District Bhojpur, Bihar.
5. Superintendent of Police, District Bhojpur, Bihar.
6. District Manager, State Food Corporation, District Bhojpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate
For the B.S.F.C.	:	Mr. Anjani Kumar, Sr. Advocate
		Mr. Shailendra Kumar Singh, Advocate
for the State	:	Mr. Kunal Tiwary, A.C. to G.A.2
		Mr. G.A.5

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

5 27-11-2024 The petitioner is aggrieved with the cancellation of

his character certificate which was again restored.

2. We had noticed the facts in our earlier order dated

04.10.2024 which we extract as under:

*“The allegation against the petitioner
for cancellation of his agreement was that he was
involved in a police case, which was not disclosed
to the Superintendent of Police, Bhojpur. The
disqualification was also on the ground of
suppression of material facts in the tender*



documents.

2. In fact, the learned Senior Counsel who is appearing on behalf of BSFC could not point out any condition in the N.I.T with respect to disclosure of criminal case pending against a bidder.

3. The petitioner's contention is that he was never issued with a notice and the F.I.R now registered which is alleged to be against him just shows his name without any details. The Superintendent of Police, Bhojpur, who issued the certificate, cancelled it behind the back of the petitioner and now has again issued a character certificate as is required under the N.I.T.

4. Prima facie, we are convinced that there is no ground for cancellation since the allegation of suppression is not supported by the N.I.T.

5. In the said circumstances, we grant stay of Annexure-P/11 till further orders.

6. In the meantime, the State will file counter affidavit in the matter.

7. Post this matter on 19.11.2024."

3. The learned Senior Counsel for the respondents on instruction takes us through Annexure-P/1 and the various provisions to contend that if there is any suppression in the documents filed before the authorities, the bidder could be disqualified. It is pointed out that there is an F.I.R. registered against the petitioner under Section 302 IPC in Udwant Nagar police station as P.S. Case No.491 of 2019 and this was suppressed in the affidavit filed before the Superintendent of Police. This led to the issuance of the character certificate at



Annexure-P/3 which was cancelled by Annexure-P/6. The F.I.R. copy is also produced as Annexure-P/7.

4. It is very clear that but for registration of the F.I.R., there is no summons or warrant issued against the petitioner. Even the investigation is not complete and there is no charge filed before the concerned Court.

5. Admittedly, the Superintendent of Police has issued fresh character certificate as is seen from Annexure-P/13. The learned Senior Counsel submits that in the said character certificate, police stations are referred to where there is no case registered against the petitioner; which omits Udwant Nagar police station.

6. We specifically looked at the specific clauses pointed out by the learned Senior Counsel from Annexure-P/1.

We extract clause 8(vii), 10(iii), (xi) and 11(xxiii) as under:

“8(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.

10(iii) Suppression of any fact/any misleading act/declaring false information as regards former selections in any district to the other bided district/s will amount to malafide intention of the bidder to mislead the District Tender Committee. In such case, contract, whether executed or not with the bidder in any district shall be terminated forthwith along with forfeiture



of EMD/Security Deposit. Further she/he shall be banned/blacklisted and not allowed to participate in any tender for next five years.

10(xi) If any of the documents submitted in Technical or financial bids of the tender found forged or tampered in, the bid will be rejected and appropriate lawful action will be taken against the bidder. At the same time, she/he/they will be blacklisted and consequently barred from taking part for next five years in the future tender and EMD will be forfeited.

11(xxiii) Suppression of any fact/declaring false information in the bid or thereafter detected at any stage will amount to mollified intention of the bidder or any attempt to mislead the District Tender Committee will result in his/her termination forthwith along with forfeiture of EMD/security deposit. Further she/he shall be banned/blacklisted and consequently barred to participate in any tender for next five years.”

7. We do not see any requirement to disclose the registration of a crime against the bidder which also can be only if a summons or warrant has been issued against him and served on him. In the present case, there is no such contention raised by the State Government.

8. True, a character certificate had been issued and cancelled by the Superintendent of Police; which as of now has been freshly issued despite the registration of the F.I.R. having been brought to the notice of the Superintendent of Police.

9. The learned Senior Counsel also relied on our



decision dated 18.11.2024 in CWJC No.9146 of 2024 (M/s Valiance Trading Pvt. Limited vs. The State of Bihar & Ors.) wherein the character certificate issued as against the petitioner was cancelled. Here the facts are different in so far as the character certificate though cancelled has been re-issued by the very same Superintendent of Police.

10. We find absolutely no reason to accept the cancellation on the basis of the allegation raised for disqualification which is not a ground coming from Annexure-P/1 (Notice Inviting Tender).

11. We allow the writ petition setting aside the petitioner’s disqualification order (Annexure P/1) and directing the contract to be awarded, if the bid is otherwise valid and responsive.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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