

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13074 of 2024

ADYA RAJ Developers Pvt. Ltd. Patna,202 Vishnu Palace, East Boring Canal Road, Patna-1 through its Director Sri Jitendra Kumar Roy, Son of Ram Sagar Prasad, House No 57, Montessori School Lane, Gandhi Nagar Boring Road, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Govt. of Bihar, Patna.
2. The Director, Bihar Medical Service Infrastructure Corporation Limited, 2nd and 3rd floor, Swasthya Bhawan Behind IGIMS, Sheikhpura, Bihar, Patna.
3. The Managing Director, BMSICL, Bihar Medical Services Infrastructure Corporation Limited, 2nd and 3rd floor, Swasthya Bhawan Behind IGIMS, Sheikhpura, Bihar, Patna.
4. The Joint Secretary-Cum-Representative, Health Department, Govt. of Bihar, Patna.
5. The Chief General Manager (Project), BMSICL, Patna Bihar Medical Service Infrastructure Corporation Limited, 2nd and 3rd floor, Swasthya Bhawan Behind IGIMS, Sheikhpura, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Dr. Ranjeet Kumar, Advocate Mr. Shikhar Mani, Advocate Ms. Lakshmi, Advocate Mr. Rajnesh Kumar, Advocate Mr. Chandan Kumar, Advocate
For the State	:	Mr. P.K. Shahi, Advocate General
For the BMSICL	:	Mr. Lalit Kishore, Sr. Advocate Mr. Vikash Kumar, Advocate Mr. Ayush Kumar, Advocate Mr. Kanishka Shankar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-09-2024

The petitioner is aggrieved with the
disqualification of the petitioner's bid on the ground that the
petitioner does not have work of similar nature as required



under Clause 4.5(A)(a). The learned Counsel for the petitioner submits that he had submitted a certificate which was issued by the respondent themselves on 03.08.2024, of work completion-cum-experience certificate, which has been unilaterally cancelled by them. If the said certificate had been considered, the petitioner could not have been disqualified is the contention.

2. We see from Clause 4 (A)(a)&(b) that the requirement is the following:

4.5 (A) To qualify for award of the contract, each bidder in its name should have in the last Seven years as referred to in Appendix:-

(a) Achieved in any one year a minimum annual financial turnover (in all classes of civil engineering construction works only) volume of construction work of at least the amount equal to the 50% (fifty percent) estimated cost of works for which bid has been invited. The turn over will be Indexed at the rate of 10% for a year. Certificate from statutory auditor is required to verify the turn over from civil engineering construction work.

(b) The contracting Firm/Agency/JV should have "Satisfactorily Completed" in India as a Prime contractor during the last Seven years ending last day of the month previous to the

*month of date of tender i.e. **30 June, 2024** construction of: -*

*i. At least one hospital or composite hospital campus having College/Hostel/Residential Building (including civil works along with services like plumbing & electrical) having total cost not less than 40% of the estimated value (i.e., **Rs. 51.88 Cr.**) of the project put to tender.*

"Or"

At least one hospital or composite hospital campus having College/Hostel/Residential



Building (including civil works along with services like plumbing & electrical) having total built up not less than 40% of the project (i.e. 4544 Sqm) put to tender.

And

ii. Three works of similar nature in India each costing not less than 40% (forty percent) of the estimated cost of this project.

"Or"

Two works of similar nature in India each costing not less than 60% (sixty percent) of the estimated cost of this project.

"Or"

One work of similar nature in India costing not less than 80% (eighty percent) of the estimated cost of this project.

➤ *"Similar Nature" shall mean: -*

Construction of: -

a) Dental College/Medical College & Hospital Building 'or'

b) Institutional Building more than 15 mtr in height 'or'

c) Educational Building more than 15 mtr. in height 'or'

d) Residential Building more than 15 mtr in height

On Composite basis i.e., civil works along with associated MEP services like plumbing & electrical for Central/State Govt./PSU/Private Sector.

III. Additional Qualification Criteria-

The contracting Firm/Agency/JV should have "Satisfactorily Completed" in India three works of Heat Ventilation and Air conditioning (HVAC) work of value Rs. 2.34 Cr. In any building work during last seven years.

"Or"

The contracting Firm/Agency/JV should have "Satisfactorily Completed" in India two works of Heat Ventilation and Air conditioning (HVAC) work of value Rs. 3.51 Cr. in any building work during last seven years.

"Or"

The contracting Firm/Agency/JV



should have "Satisfactorily Completed" in India one work of Heat Ventilation and Air conditioning (HVAC) work of value Rs. 4.68 Cr. In any building work during last seven years.

The completion certificate shall be issued by employer not below the rank of Executive Engineer or Project Manager. In case of private client, the completion certificate issued by employer should be certified by CA and supported with TDS certificate. The bidders shall have to also submit good quality digital photographs of the completed projects.

3. The specific contention of the petitioner is that the certificate indicates work of similar nature. The definition of similar nature would not take in the construction of a surgical block building at DMCH, Laheriasarai, Dist- Darbhanga; as we notice from the certificate relied on by the petitioner.

4. We have to notice that the requirement as per Clause- 4.5 (A)(b)(i) is a hospital or composite hospital campus having college/hostel/residential building or one hospital or composite hospital campus and then the works of similar nature as stated in Clause- 4.5 (A)(b)(ii).

5. We have to notice that the similar nature definition cannot restrict the various categories as found in Clause- 4.5 (A)(b)(i). The petitioner has by the certificate dated 05.08.2024; even if it is not cancelled, constructed a surgical block building alone which would not fall within the classification of one hospital or composite hospital campus



having college/hostel/residential building etc.

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

(K. Vinod Chandran, CJ)

(Nani Tagia, J)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.09.2024.
Transmission Date	

