

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13539 of 2024

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Sona Engicon Pvt. Ltd. having its Head office at Sona Commercial Complex, Thana Road, Gopalganj, Bihar - 841428, represented through its Director Prabhat Kumar Panja, aged about 57 years (Male), son of Late Anil Panja, resident of House No.- 37K/A, Sareya, Ward No.- 13, Kali Asthan Road, P.O.- Gopalganj, P.S.- Gopalganj Town, District- Gopalganj (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary (ACS), Rural Works Department, Government of Bihar, Patna.
2. The Additional Chief Secretary (ACS), Rural Works Department, Government of Bihar, Patna.
3. The Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.
5. The Chief Engineer- 6, (Darbhanga), Rural Works Department, Bihar.
6. The Superintending Engineer, Work Division Darbhanga, Rural Works Department, Government of Bihar, Patna.
7. The Executive Engineer, Work Division Darbhanga, Rural Works Department, Bihar Patna.
8. The Technical Bid Evaluation Committee in relation to Package No. MR-N/2023-24 Darbhanga-01/11, Tender I.D. 130005 in connection with NIT No.- MR-3054-48/2023-24 represented through Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.
9. M/s Jadubansh Kumar Singh, having its Branch Office at Road No.- 2 Sheikhpur, Akharaghat, Muzaffarpur, represented through its Managing Partner, Yadubansh Kumar Singh.
10. Royal Engineers, having its Branch Office at Akharaghat, Nazirpur, Muzaffarpur, through its partner Chandra Kishore Sah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashish Giri, Advocate Mr. Sumit Kr. Jha, Advocate Ms. Riya Giri, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, Advocate General

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



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-09-2024

The petitioner is concerned with the cancellation of his technical bid on the ground that he had not submitted the Letter of Bid, required as per the bid document.

2. The learned Counsel for the petitioner Sri Ashish Giri points out various clauses from the Model Bid Document (for brevity, the MBD) of the Rural Works Department, Govt. of Bihar., the extracts of which are produced along with the writ petition. The specific provisions pointed out are Clause- 4.2(l) and 4.3(a), which are applicable to joint venture entities.

3. It is the submission of the learned Counsel for the petitioner that in the Letter of Bid, the format of which is also enclosed with the MBD, there is one clause which is with respect to participation as a joint venture and responsibility and obligations of each of the partners having been submitted in the bid. It is the submission that the petitioner is as a Company, as distinguished from a joint venture and hence, the Letter of Bid was not submitted.

4. It is also submitted that insofar as the 9th respondent is concerned, a Letter of Bid was submitted with Clause- 4.2(m) but however, they're not a joint venture. In such circumstances, the petitioner also should be given an



opportunity to produce a Letter of Bid.

5. The learned Advocate General, however, submits that without production of Letter of Bid, the technical bid could not have been considered and that is the reason for cancellation as seen from Annexure-P/3.

6. We see that the petitioner's bid was cancelled only because of the Letter of Bid was not submitted. We also see from the MBD that by Clause- 6.1, that a prospective bidder requiring any clarification of the bidding document shall contact the Engineer-in-Chief in writing at the Engineer-in-Chief's address indicated in the BDS or raise his enquiry during the pre-bid meeting if provided for in accordance with ITB 6.4. The petitioner obviously did not raise any such objection or seek a clarification as is provided therein.

7. The petitioner did not file a Letter of Bid, which led to his bid being cancelled. As far as the 9th respondent is concerned, as an abundant caution, they did not strike out Clause- 4.2(m), though the 9th respondent is not a joint venture. However they submitted a Letter of Bid. What is relevant is the submission of Letter of Bid and when the tenderer is not a joint venture it would not militate against the tenderer, if Clause- 4.2(m) was not struck off.



8. The petitioner either could have submitted the Letter of Bid as such or struck off Clause- 4.2(m) and submitted it for the purpose of completion of tender.

9. It is also submitted that the petitioner had raised some objections with respect to respondent no. 9 and 10. The petitioner does not have any *locus standi* now that he is disqualified, however the objection if valid can be considered by the authority, with notice to such parties.

10. We do not find any reason to interfere with the tender proceedings and the writ petition stands dismissed *in limine*.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.09.2024.
Transmission Date	

