

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14091 of 2024

M/S R.S. Construction through its Partner Sanjay Kumar Sharma, Aged about 47 years, Gender - Male, S/o - Late Sukhdev Sharma, Resident of Ward No. - 16, Sahjanand Colony, Bhagwanpur, P.S. - Sadar, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Rural Works Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Rural Works Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief, Rural Works Department, Vishveshwarya Bhawan, Bailey Road, Patna.
4. The Nodal Officer, PMGSY (Pradhan Mantri Gram Sadak Yojana), Bihar, Patna.
5. The Chief Engineer-3, Rural Works Department Govt. of Bihar, Patna.
6. The Superintending Engineer, Rural Works Department, Works Circle, Madhubani.
7. The Executive Engineer, Rural Works Department, Works Division, Benipatti, Madhubani.
8. The Executive Engineer, Rural Works Department, Works Division, Phulparas, Madhubani.
9. M/S Mateshwari Construction Pvt. Ltd. through Proprietor Vikash Kumar, resident of village- Mamka Niwas, Chitour Nagar, New Area, Post- Aurangabad, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, Advocate General

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 24-09-2024 The petitioner is aggrieved by his disqualification in a Notice Inviting Tender produced as Annexure-P/2. The petitioner was disqualified as per Annexure-P/6 for reason of



not having complied with Clause 4.4 (B)(b)(i). The aforesaid Clause is extracted hereunder:

(i) availability for construction work, either owned, or on lease or on hire, of the key equipment stated in the Appendix to ITB including equipments required for establishing field laboratory to perform mandatory tests, and those stated in the Appendix to ITB;

2. Admittedly, the petitioner has not provided the ownership or availability of equipments required for establishing a field laboratory to perform mandatory tests. The petitioner's contention as is evident from the bid documents produced alongwith the writ petition at page no. 57 is that an affidavit of undertaking to procure the same if the award is made has been furnished along with the bid documents. This falls short of the requirement of clearly indicating the availability of such equipments required for establishing field laboratory to perform mandatory tests.

3. We find absolutely no reason to interfere with the disqualification of the petitioner. The petitioner then submits that respondent no. 9 has been qualified despite such an undertaking alone having been given.

4. First of all, there is absolutely nothing to



substantiate such contention; then again when the petitioner has been disqualified he cannot challenge the qualification of other bidders, as has been held in by the Hon'ble Supreme Court in **Raunaq International Ltd. v. I.V.R. Construction Ltd; (1999) 1 SCC 492** and **S.S. & Co. v. Orissa Mining Corpn. Ltd., (2008) 5 SCC 772.**

5. The writ petition stands dismissed *in limine*.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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