IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14707 of 2023

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Dhiraj Kumar Proprietorship firm having its office at Ratanpur, Police Station- (Ratanpur O.P.) Begusarai Town, District- Begusarai, through its Proprietor namely Dhiraj Kumar, Male, Aged about - 40 years, S/o Sri Sudheer Kumar Singh, Resident of Village and Post- Ratanpur, Ward No. 21, Police Station- (Ratanpur O.P.) Begusarai Town, District- Begusarai.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Food and Consumer Protection Department, Government of Bihar.
2. The Additional Chief Secretary, Food and Consumer Protection Department, Government of Bihar.
3. Bihar State Food and Civil Supply Corporation Ltd., Through The Managing Director, Khadya Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna.
4. The Managing Director, Bihar State Food and Civil Supply Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna.
5. The District Magistrate-cum-Chairman, District Transport Committee, Khagaria.
6. The Deputy Development Commissioner, Khagaria.
7. The Additional Collector, Khagaria.
8. The District Transport Officer, Khagaria.
9. The District Supply Officer cum Chairman, District Grievance Committee, Khagaria.
10. The District Manager, Bihar State Food and Civil Supply Corporation Ltd. Khagaria.
11. Sri Ajit Kumar Rai, Son of Sri Sudheer Kumar Rai, Resident of Village- Rani 3, P.S. Bachhwara, District- Begusarai (Bihar).
12. M/s Himanshu Agro Road Line Pvt. Ltd. Through its Proprietor Sri Deepak Kumar, Son of Sri Jageshwar Sah, Resident of Village- Sonru, P.S.- Fathua, District- Patna (Bihar).

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pushkar Narain Shahi, Sr. Advocate Mr.Rohit Raj, Advocate Mr. Shivam, Advocate
For the BSFC	:	Mr. Anjani Kumar, Sr. Advocate Mr. Shailendra Singh, Advocate
For the State	:	Mr. Arvind Ujjwal (SC 4)
For Respondent no. 12	“	Mr. Md. Shamimul Hoda, Advocate

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

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-08-2024

The petitioner is aggrieved with the disqualification in a technical bid. The petitioner applied under the NIT produced as Annexure-1. As per Clause-8(i) of the NIT, the petitioner was obliged to submit an income tax return for the last three years. In fact the form in which the submission has to be made is evident from Page-29 of the writ petition being the technical bid sheet i.e: “Annual financial turnover of last 3 (Three) years should be audited by Chartered Accountant”. The petitioner's technical bid was disqualified on the ground that he had not submitted the audited financial turnover of the last three years as is seen from Page-40 of the writ petition enclosed with Annexure-2.

2. Learned Senior Counsel for the petitioner specifically points to pages 192, 213 and 217 which are respectively the financial statements for the year ending 31.03.2021, 31.03.2022 and 31.03.2023. The learned Senior Counsel for the respondent from the counter affidavit, however, points out that those are only financial statements issued by the Chartered Accountant for the purpose of availing bank loan and cannot be termed to be audited financial

statements for three years. The petitioner again refers to page 215 and 219 where the auditor's report for the year 2021 and 2022 are enclosed. However, the petitioner is not able to show any document which indicates the audited financial statement for the year ending 31.03.2023 having been submitted.

3. The learned Senior Counsel for the respondent also refers to CWJC No. 9689 of 2024 (Subir Mahanta Vs. the State of Bihar), wherein, the Chartered Accountant's certificate was required to be submitted as proof of turnover. Therein, it was not the production of the audit report which was required but the certificate of the Chartered Accountant, which was not produced. The audit report produced therein which was under the Income Tax Act was held to be not possible of reliance. In the same manner, in the present case, it is the audited report that has been insisted by the Authority who issued the NIT. We are convinced that for two years ending on 31.03.2021 and 31.03.2022 the petitioner has submitted the audited report, but however, no audited report has been filed for the year ending 31.03.2023.

4. In such circumstance, we are of the opinion that no interference could be caused to the disqualification made of the petitioner in the technical bid.

5. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2024
Transmission Date	NA