

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15489 of 2024

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Krishabh Nirman (P) Ltd. through its Director Mr. Ramesh Kumar Singh,
Aged about 51 Years, son of Late Ram Bihari Singh, Resident of Mohalla-
Mata Khudi Lane, Gali No. 25K, P.O- Mahendru, P.S- Sultanganj, District-
Patna-06.

... .. Petitioner/s

Versus

1. The State of Bihar through its Additional Chief Secretary, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road (Nehru Path), Patna-15.
2. The Additional Chief Secretary, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road (Nehru Path), Patna-15.
3. The Engineer- In- Chief, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road (Nehru Path), Patna-15.
4. The Chief Engineer-1 (Patna), Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road (Nehru Path), Patna-15.
5. The Superintending Engineer, Rural Works Department, Works Circle, Patna.
6. The Executive Engineer, Rural Works Department, Works Division, Paliganj.
7. The Nodal Officer (MMGSUY), Rural Works Department, Bihar, Patna.
8. Runway Infracon Pvt. Ltd., through its Managing Director Mr. Pinkesh Kumar Singh, Kanishk Bihar, Near Sutta Mill, Siwan (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Narayan, Sr. Advocate
Mr. Manish Sahay, Advocate
Mr. Anil Kumar Sinha, Advocate,
Mr. Aman Raj, Advocate
For the Respondent/s : Mr. P.K. Shahi, Advocate General
Mr. Vikas Kumar, AC to AG



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

Date : 07-10-2024

The petitioner is concerned with the qualification of the 8th respondent after they were first disqualified.

2. It is admitted that the 8th respondent made an objection to their disqualification and after consideration of the same their bid was qualified at the technical stage. The petitioner filed an objection to such subsequent qualification.

3. The learned Senior Counsel Shri Rajendra Narayan, appearing for the petitioner, would point out that there are two defects; insofar as ITB 4.4 B (b) (i), as per the requirements, a Hot Mix Plant and Generator of 250KVA having not been produced, as is seen from the bid document itself with specific reference to page 79 of the writ petition.

4. The qualification was made by Annexure-P-5 which speaks of only an Ashphalt Drum Mix Plant DM-45 having been produced in lieu of a Hot Mix Plant and an undertaking to produce the required Plant within 30 days of the invoice period.

5. Though there was no document of a generator



produced, the learned Advocate General submits from ITB 4.4 B (b) (i) that the requirement is only to produce it within 30 days of issuance of LOA, failing which there is also a clause for forfeiture and cancellation.

6. The learned Senior Counsel specifically refers to Annexure P-9 judgment in which the absence of a required machinery was the result of the affirmation of the cancellation.

7. We notice that the specific clause ITB 4.4 B (b) (i) was noticed by us in **M/s Jay Mata Di Enterprises v. The State of Bihar (CWJC No. 12254 of 2024)**. We had specifically referred to the clause which permits production of documents of machinery/equipment which is owned, leased, hired or even to be procured by the bidder. The clause also permits commission of such equipment or machinery within 30 days of issuance of LOA, and if there is failure to do so, the security amount would be forfeited and the award would be cancelled.

8. The learned Advocate General specifically points out that the construction is of a dilapidated road which has to be taken up expeditiously.

9. In the above circumstances, we are of the opinion that the writ petition is devoid of merit. The requirement is only



to produce the required machinery within 30 days of issuance of
LOA which, if not produced, the 8th respondent would definitely
suffer forfeiture and cancellation.

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

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	07.10.2024
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