

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15540 of 2024

Jamil Akhtar Son of Late Mohammad Safi Having Registered Office at Meena Bazar, Sehat Medical Store, Bettiah, Police Station- Bettiah, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
3. The Director, Department of Mines and Geology, Government of Bihar, Patna.
4. The District magistrate/Collector, West Champaran, Bettiah.
5. The District Mining Officer, West Champaran, Bettiah.
6. The Bihar State Mining Corporation Ltd., through its Chief Manager, Room No.164, Vikas Bhawan (New Secretariat), Baily Road, Patna.
7. The Chief Manager, Bihar State Mining Corporation Ltd., Room No.164, Vikas Bhawan (New Secretariat), Baily Road, Patna.
8. The Managing Director, Bihar State Mining Corporation Ltd., Room No.164, Vikas Bhawan (New Secretariat), Baily Road, Patna.
9. The General Manager, Bihar State Mining Corporation Ltd., Room No.164, Vikas Bhawan (New Secretariat), Baily Road, Patna.
10. The Authorised Officer, Bihar State Mining Corporation Ltd., Room No.164, Vikas Bhawan (New Secretariat), Baily Road, Patna.
11. N. K. Enterprises through Mr. Navneet Kumar, Son of Shri Daya Shagar Prasad, Resident of Ward No.33, Shanti Nagar, Bettiah, Police Station- Bettiah Town, District-West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the Respondent/s	:	Mr. Naresh Dikshit, Spl. P.P. Mines
		Ms. Kalpana, Advocate
		Mr. Standing Counsel (15)

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

Date : 07-10-2024



1. Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application praying for a direction to the respondents to inspect irregularities committed in the e-Auction dated 10.4.2023 for settlement of Unit/Cluster no.11, Balughat, West Champaran, to act upon the representation of the petitioner and annul the auction process dated 10.4.2023, to cancel selection of respondent no.11 and for other reliefs.

3. The facts of the case in brief are that Mines and Geology Department, Government of Bihar came out with a notice dated 23.3.2023 inviting e-Auction for settlement of sand *ghats* in the District of West Champaran. The notice (Annexure-P/1) issued under the signature of the Collector, West Champaran, Bettiah provided the last date of submission of bid to be 31.3.2023, the last date of uploading the list of bidders to be 6.4.2023 and that the technical bids were to be opened on 10.4.2023. The petitioner along with others submitted their bids.

4. It is the case of the petitioner that during e-Auction, three of the twelve participants had participated from the same IP address. On closing of the e-Auction process, the respondent no.11 was selected as a successful bidder and the Auction



Synopsis Report (Annexure-P/3) was uploaded on the website of the Department on 10.4.2023. Having come to know about the irregularities, he filed his representations before the Collector on 12.4.2023, before the Additional Chief Secretary and the Director, Department of Mines and Geology, Government of Bihar on 13.4.2023 and before the Secretary of the Department on 17.4.2023. Not having got the tender, the petitioner filed the instant writ application for the reliefs as stated above.

5. It is submitted by learned counsel appearing for the respondents that there is no illegality committed in the e-Auction process. Pursuant to the notice inviting e-Auction for settlement of sand *ghats*, published under the signature of the Collector, West Champaran, Bettiah, the petitioner along with others participated. In reference to the Auction Synopsis Report, it is submitted that on opening of the bid, the position of the petitioner was at Serial no.11 out of a total of twelve participants, when the twelfth participant had not placed any bid. Thus, in no manner, even for a moment accepting the case of the petitioner, would he be reckoned anywhere near allotment. As such, it is submitted that there is no merit in the instant application and the same be dismissed.



6. Having heard learned counsel for the parties and having perused the material on record, this Court finds that pursuant to the respondents coming out with a notice inviting e-Auction for settlement of sand ghats on 23.3.2023, as contained in Annexure-P/1, the petitioner along with others submitted their bids. On opening of the bids, as it would transpire from the Auction Synopsis Report (Annexure-P/3), out of the twelve bidders, Panchmukhi Traders not having participated and no bids having been placed on their behalf were ranked 12th and the petitioner was placed at rank no.11.

7. So far as contention of the petitioner that there was violation of Clause-18 of the tender document is concerned, on account of the bids having been placed from the same IP address, it may be observed here that Clause-18 of the bid document (Annexure-P/2) provides that if in case of the e-Auction process, any irregularity or corrupt practice has been adopted by the bidders, the bid process may be stayed and the Collector or the Mines and Geology Department would have the power to set aside the bidding process.

8. It may be observed here that the petitioner has not been able to point out any allegation showing any specific violation of any of the terms and the bid document. Even for the



sake of argument, if the contention of the petitioner is accepted, it would be important to note that there would still be seven bidders over the petitioner, against whom the petitioner has not even whispered any violation of any of the terms of the bid document nor have they been impleaded as party respondents herein. Further, it would be important to note that while the notice inviting e-Auction for settlement of the sand *ghats* was published on 23.3.2023, the bids were opened on 10.4.2023 and as per the petitioners case he filed various representations before the respondent authorities between 12.4.2023 and 17.4.2023. Still the petitioner has moved this Court after a delay of about one year six months on 5.10.2024 with no explanation whatsoever for the same.

9. In the facts and circumstances of the case, the petitioner not having succeeded in the bid and in fact having been placed at the last position at Serial no.11, among the bidders who participated by placing their bids, the petitioner not having challenged his not succeeding in the bidding process, has no right to challenge the process. Reference may be made to the judgment of the Hon'ble Supreme Court in the case of **S.S. & Co. vs. Orissa Mining Corporation Ltd. [(2008) 5 SCC 772]**.

10. In view of the facts and circumstances stated



herein above, the Court finds no merit in the instant application
and the same is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	08.10.2024
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