

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17899 of 2023

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M/s Anjali Construction, a partnership firm, having its office at New Colony, Mainpura, Danapar Patna through its Sole proprietor, Sunil Kumar, aged about 48 years (male), son of Ram Sagar Rai, resident of Village Mainpura, P.S. Danapur, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer in Chief, Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer-1, Rural Works Department, Government of Bihar, Patna.
5. The Superintending Engineer, Rural Works Department, Work Circle- Patna, Government of Bihar, Patna.
6. The Executive Engineer, Rural Works Department, Works Division- Patna, Government of Bihar, Patna.
7. Niraj Kumar, Son of Jaynandan Sharma, Resident of Village Rupaspur, P.O.- Hazrat Sain, P.S. Dhanarua District Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Avinash Shekhar, Advocate
For the Respondent/s	:	Mr. Anwar Karim, AC to GP-10
For the Respondent No.7:		Mr. Prabhat Ranjan, Advocate
		Mr. Chandan Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-03-2024

The petitioner is concerned with the disqualification made of his tender by the Technical Bid Evaluation Committee on 08.09.2023. The petitioner applied under Annexure-P/1 Notice Inviting Tender (NIT), specifically



for serial no.18, which indicates repair of two roads, namely, NH-30A se Balwa Janewali Path ke Surgapar se Jafrabad/PWD Mohiuddipur Road to Ghosanpura Kiswiriya Road and maintenance for five years. The technical bid evaluation committee had considered all the tenders filed including that of the petitioner and on 23.06.2023 qualified the petitioner along with three others. The petitioner made an objection with respect to the qualification of two others. The technical bid evaluation committee again considered the matter and on 25.07.2023, the petitioner and two others were qualified. One of the persons against whom, the petitioner raised an objection was disqualified. From one of the successful bidders, yet another complaint came to be filed before the tendering authority raising an allegation about the fixed deposit furnished by the petitioner. Based on that, the technical bid evaluation committee again considered the matter and disqualified the petitioner on 08.09.2023, which decision is challenged before us.

2. Learned Counsel for the petitioner submits that the objection to the petitioner's qualification was based on the fixed deposit submitted, which is at Annexure-P/2. The tender document only prescribed a condition of endorsement/pledge to the authorized departmental representative i.e. the concerned



Executive Engineer, RWD, Works Division, Patna which has been done in Annexure-P/2. In fact a subsequent certificate was also produced from the Bank dated 25.08.2023 certifying that there was a proper endorsement in the name of the Executive Engineer, Rural Works Department, Works Division, Patna.

3. We have looked at the copy of the fixed deposit, which admittedly, the petitioner filed along with the tender documents produced at Annexure-P/2. The fixed deposit is made out in the name of M/s Anjali Construction, E.E.R.W.D., Works Division, Patna. On the face of it the fixed deposit is in the name of M/s Anjali Construction, the petitioner herein and not in the name of the Executive Engineer. The Executive Engineer has been shown as the address of M/s Anjali Construction, which cannot be considered to be a due endorsement made by the Bank or pledge in favour of the authorized departmental representative. The proper procedure would have been to take a fixed deposit receipt in the name of the petitioner and the Bank to make an endorsement or indicating a lien in favour of the Executive Engineer, RWD Works Division, Patna or pledge it in favour of the Executive Engineer. On the face of it Annexure-P/2 is not in compliance with the notice inviting tender.

4. We are of the opinion that the subsequent



certificate produced by the petitioner, of the Bank, does not inure to the benefit of the petitioner, since the documents furnished along with the tender has to scrupulously comply with the specifications in the NIT.

5. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.03.2024
Transmission Date	NA

