

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16849 of 2024

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Anil Kumar Prasad Son of Virendra Kumar Prasad, Residing at Orma Uttar Tola, P.O.- Haakam, P.S. Siwan (M), District - Siwan, Address as per Aadhar Card, Residing of -27C, Pocket, A1, LIG Flat Mayur Vihar, Phase- 3, Vasundhara Enclave, ASO East, Delhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Planning and Development Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Planning and Development Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Local Area Engineering Organization, Patna (Planning and Development Department), Govt. of Bihar, Patna.
4. The Superintending Engineer, Local Area Engineering Orgnization, Work Circle, Chapra.
5. The Executive Engineer, Local Area Engineering Organization, Work Division- O1, Siwan.
6. The Executive Engineer, Bihar State Educational Infrastructure Development Corporation Limited, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjeet Kumar, Advocate
For the State	:	Mr.Vikas Kumar, AC to A.G.
For the BSEIDC	:	Mr. Girijish Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-11-2024

The petitioner is concerned with the disqualification ordered by the respondent authority.

2. The submission of the petitioner is that though he was qualified at the instant stage, on an objection by a third party, the disqualification was ordered. The petitioner was not



supplied with the objection nor was the petitioner informed of the identity of the person who objected to the petitioner's qualification. The further contention with respect to the disqualification as such is that Clause 4.3(l) of instructions to bidders has to be read along with Clause 4.5(B) and hence, has application only to the works, which have an estimated cost over Rs. 5 crore.

3. The petitioner admittedly did not submit the proposed methodology and programme of construction, backed with equipment planning and deployment, duly supported with broad calculation and quality control procedures, which is required under Clause 4.3(l). The petitioner's contention is only that this has to be read along with Clause 4.5(B), which is applicable only for works with estimated cost above Rs. 5 crore.

4. We have to extract Clause 4.3(l):-

“4.3. If the Employer has not undertaken prequalification of potential bidders, all bidders shall include the following information and documents with their bids in Section 2:

(a) xx xx xx
 xx xx xx

(l) the proposed methodology and programme of construction, backed with equipment planning and deployment, duly supported with broad calculations



and quality control procedures proposed to be adopted, justifying their capability of execution and completion of the work as per technical specifications within the stipulated period of completion as per milestones.

5. We also extract Clause 4.5(B):-

“4.5(B) Each bidder should further demonstrate:

(a) availability (either owned or leased or by procurement against mobilization advances) of the following key and critical equipment for this work:

Based on the studies, carried out by the Engineer the minimum suggested major equipment to attain the completion of works in accordance with “the prescribed construction schedule are shown in the Annexure-I.

Availability of the testing equipment required for establishing field laboratory to perform mandatory tests e.g. those stated in Appendix to ITB.

The bidders should, however, undertake their own studies and furnish with their bid, a detailed construction planning and methodology supported with layout and necessary drawings and calculations (detailed) as stated in clause 4.3(1) above to allow the employer to review their proposals. The numbers, types and capacities of each plant/equipment shall be shown in the proposals along with the cycle time for each operation for the given production capacity to match the requirements.

NOTE:(To be included for bids valued over Rs 5 Crore).”



6. It is very evident, on a mere reading of Clause 4.5(B), that the specifications therein are applicable to works, which have a value over Rs 5 crore. The bidders would have to further demonstrate the stipulations therein, which is in addition to the stipulation provided under Clause 4.3.

7. A mere reading of the two provisions would also indicate that what Clause 4.3(1) stipulates, is a broad calculation while the proposal of methodology and programme made under Clause 4.5(B) should be specific and should have the specified details along with the number, type and capacity of each plant or equipment and the cycle time for each operation for the given production capacity so as to allow the employer to review the proposals.

8. The estimated cost of the work is below Rs 5 crore and the petitioner admits that the petitioner has not submitted any proposed methodology and programme of construction, backed with equipment planning and deployment, duly supported with broad calculations and quality control procedures. We have already found that this is not a provision which is applicable to works exceeding Rs 5 crore value and would be applicable to all the works across the board. The standard bidding document indicates that the estimated cost of



the work notified is Rs 262.85621 lakh, which is below Rs 5 Crore. However, since Clause 4.3(l) has not been satisfied, we do not find any reason to interfere with the order of disqualification.

9. True, the third party objection has not been forwarded to the petitioner but, however, since the petitioner admits that Clause 4.3(l) has not been complied with, there is no question of any interference to the order and a consideration after furnishing the objection to the petitioner, would be an empty formality.

10. The writ petition, hence, would stand dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	19.11.2024
Transmission Date	

