

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17583 of 2024

POCT Services, having its registered office located at 298-281, Transport Nagar, Kanpur Road, adjacent to Transport Nagar Metro Station, P.S.- Sarojini Nagar, P.O- Manas Nagar, Lucknow, Uttar Pradesh- 226023. Through its duly authorized representative, Vinay Mishra, Male, aged about 54 years, son of Late Data Ram Mishra, Resident of- B-653, P.O. and P.S.- Rajajipuram, Lucknow, Uttar Pradesh, Pin-226017.

... .. Petitioner/s

Versus

1. The State of Bihar, Through its Additional Chief Secretary, Department of Health, Government of Bihar, Patna.
2. The Director-in-Chief, Department of Health, Government of Bihar, cum Chairman, Technical Committee, State Health Society Bihar (SHSB), Patna.
3. The Assistant Director, Regional Office for Health and Family Welfare, Patna, Government of India.
4. The Executive Director, State Health Society Bihar (SHSB), Patna.
5. The Administrative Officer, State Health Society, Patna, Bihar.
6. The Deputy Secretary-cum-In Charge, PPP, State Health Society Bihar (SHSB), Patna.
7. The Additional Director, Finance, State Health Society Bihar, Patna.
8. Dr. Pallavi Mehra, Associate Professor (Pathology), PMCH, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Advocate Mr. Amit Anand, Advocate Ms. Madhubala Kumari, Advocate
For the State	:	Mr. Vikash Kumar, SC-11
For Respondent No. 4	:	Mr. P.K. Shahi, Sr. Advocate Mr. K.K. Sinha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-12-2024

The petitioner is concerned with a process of evaluation carried out on the basis of a Notice Inviting Tender (for short 'NIT'). The petitioner was aggrieved with the decision



taken on 21.10.2024 by the Technical Committee to proceed on a technical presentation and opening of financial bid and the technical presentation constituted on 23.10.2024 at 11:00 A.M. and the Financial Bid Opening at 4:00 P.M. on the very same day, as per the said decision.

2. The petitioner has now filed an interlocutory application seeking to implead two successful bidders on the ground that they had been qualified illegally and without looking at the requirements as per the NIT; which we perceive as an extension of the scope of the writ petition, against which no relief has been sought in the memorandum.

3. We heard Shri P.N. Shahi, learned Senior Counsel for the petitioner and Shri P.K. Shahi, learned Senior Counsel for the respondents.

4. From the writ petition, we see that there are four reliefs sought, which are; in the nature of a writ of certiorari against the decision to hold the technical presentation at 11:00 A.M. on 23.10.2024; the Financial Bid Opening at 4:00 P.M. on the same day, and the decision to that end of the Technical Committee taken on 21.10.2024.

5. In seriatim, it has to be noticed that on 21.10.2024, as is evident from Annexure-P/7, the Technical Committee



convened a meeting to open the technical bids. A technical bid evaluation was conducted and based on that, as also the responses received from the bidders, the Technical Committee prepared a 'Technical Bid Comparative Chart and Evaluation Sheet', which was annexed with the minutes. Seven bidders, including the petitioner, were qualified.

6. Based on the qualification of seven bidders, the Technical Committee also recommended that representatives from the above technically qualified bidders be invited for a presentation in front of the Technical Committee as per the terms and conditions mentioned in NIT at the Conference Hall of the State Health Society at 11:00 A.M. on 23.10.2024. All the bidders were issued with Annexure-P/8, an e-mail, the attachment in which is also produced along with the annexure; a communication dated 21.10.2024. The responsive bidders at the technical evaluation were called for a presentation on 23.10.2024 at 11:00 A.M. By Annexure-P/9 e-mail dated 22.10.2024; with an attachment of even date, the bidders were also invited for the Financial Bid Opening on the same date at 4:00 P.M.

7. The contention taken by the learned Senior Counsel for the petitioner was that they were taken by surprise insofar as



the presentation arranged without sufficient notice.

8. We cannot countenance the said contention, especially since the petitioner had submitted their bids comprising of technical requirements along with the financial bids and they should have been ready for the presentation at any time they are summoned. The NIT also specified 13.09.2024 as the scheduled date of opening of technical bids; which was later adjourned to 24.09.2024 and then to 04.10.2024, respectively, through Annexure-P/3 and P/5 Corrigendum to the NIT.

9. It is also not disputed that the petitioner appeared before the Technical Committee, and without filing any objection, regarding lack of sufficient notice, made their presentation. The financial bid was also opened on the same date, which also we do not find any reason to interfere with, since immediately after the Technical Bid Evaluation, the Technical Committee could convene a meeting, as the evaluation regarding the technical requirements were already done and only the assessment based on the presentation was remaining. The financial bid also stood opened on 23.10.2024 at 4:00 P.M.

10. The objection raised by the petitioner was with respect to one other responsive bidder, which was after the



financial bid opening, by Annexure- P/10 dated 23.10.2024 at 6:50 P.M. This was followed up with another objection, Annexure-P/11 against the very same bidder; viz M/s Science House Medicals Pvt. Ltd. The writ petition itself was filed on 19.11.2024 when not even a prayer was made for consideration of the objection nor was the said bidder impleaded.

11. The learned Senior Counsel appearing on behalf of the respondents submitted that it is only after the financial bid was opened, an objection was made with respect to M/s Science House Medicals Pvt. Ltd. In the writ petition also, there is a bland allegation made against M/s Science House Medicals Pvt. Ltd. and M/s Hindustan Wellness Pvt. Ltd., without any substantiation. There is no relief sought in the writ petition with respect to the successful bidders.

12. We cannot permit the petitioner to expand the scope of the writ petition; to include allegations against the successful bidders, to be agitated, when even such relief was not sought in the writ petition. We also notice that even today there is only an impleadment sought of two bidders who participated without any amendment to the pleadings or reliefs. We are not inclined to entertain the writ petition filed against the decision of the Technical Committee to call for a Technical Presentation,



followed up with the opening of the financial bid and the tender process so carried out and concluded. However, we make it clear that the petitioner would be left liberty to challenge the LOA issued to the successful bidders, if he is so aggrieved.

13. The writ petition would stand dismissed with the above reservation.

14. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Nani Tagia, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	04.12.2024
Transmission Date	

