

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17559 of 2024

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Anil Kumar Prasad, Son of Birendra Kumar Prasad, Resident of Village-Orma Utar Tola, Post Office- Hakam, P.S.- Mufassil, Siwan, District- Siwan, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar, through 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 -cum- Additional Commissioner -cum- Special Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer-05, Rural Works Department, Government of Bihar, Patna.
5. The Superintending Engineer, Work Division Siwan, Rural Works Department, Government of Bihar, Siwan.
6. The Superintending Engineer, Nodal Officer, MMGSUY, Rural Works Department, Government of Bihar, Patna.
7. The Technical Secretary to the Engineer in Chief, Rural Works Department, Government of Bihar, Patna.
8. The Executive Engineer, Work Division Siwan-01, Rural Works Department, Bihar, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ashish Giri, Advocate Mr. Sumit Kumar Jha, Advocate Ms. Riya Giri, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, Advocate General

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-11-2024

The petitioner is aggrieved with the disqualification in the technical evaluation pursuant to Annexure-P/1 series Notice Inviting Tender (for short 'NIT').



2. The learned Counsel for the petitioner points out Serial No. 12 from Annexure-P/1 series, which the petitioner had applied under. The specific contention taken is that the petitioner is not required to make available the entire machinery and equipments required for the construction work with the tender document. Reference is made to Clause 4.4 B(b)(i) of the Instruction to Bidders, which requires availability for construction work, either owned, or on lease or on hire, of the key equipment stated in the Bid Data Sheet or undertaking to provide it within 30 days of LOA.

3. The specific contention is that, as has been held by this Court in **CWJC No. 12254 of 2024 (M/s Jay Mata Di Enterprises & Ors. v. The State of Bihar & Ors.)**, the petitioner had provided an affidavit undertaking that the machinery and equipment required will be provided.

4. The learned Advocate General, on the other hand, specifically points out Annexure-P/3, which is the affidavit filed by the petitioner. The affidavit filed by the petitioner shows that the petitioner has declared ownership of certain equipments, as declared in the tabular form itself. However, none of the documents with reference to those were filed.

5. We have dealt with the very same provision in the



cited decision. The specific contention taken therein, and accepted by us, was that, if the required equipment or machinery is not available with the petitioner, on own basis or on lease, then an affidavit has to be filed, specifically indicating that the required machinery and equipment which are not available, will be produced within 30 days of issuance of LOA.

6. We see that Annexure-P/3 speaks of many of the machineries and equipments required being owned by the petitioner.

7. The specific contention of the learned Advocate General is also that none of the documents were produced to indicate the ownership of such machinery and equipment, which though disputed, the petitioner's Counsel was not able to point out the documents with reference to each of the machinery and equipment which have been declared as owned in the affidavit at Annexure-P/3.

8. We also see that the undertaking is to install all the equipments, tools and machinery on the work site after getting Letter of Acceptance (LOA) for completion of work. This is not the manner in which an affidavit has to be filed in compliance with Clause 4.4 B (b) (i) of the Instructions to Bidders, which speaks of an affidavit clearly undertaking the machinery and



equipment to be produced within 30 days of issuance of LOA, on failure of which the petitioner would be visited with cancellation of the LOA and also forfeiture of the earnest money deposit.

9. We find absolutely no reason to interfere with the proceedings and dismiss the writ petition.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	27.11.2024
Transmission Date	

