

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18052 of 2023**

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Ranjita Kumari, Wife of Sanjeev Kumar, Resident of Village- Laxmipur, Near  
Gramin Bank, Post- Laxmipur, P.S- Laxmipur, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Tourism, Govt. of Bihar, Patna.
3. The Director, Department of Tourism, Govt. of Bihar, Old Secretariat, Patna.
4. The Bihar State Tourism Development Corporation Ltd., (A Govt. of Bihar undertaking) through its Managing Director, Beer Chand Patel Path, Patna.
5. The General Manager, Bihar State Tourism Development Corporation Ltd., (A Govt. of Bihar undertaking) Beer Chand Patel Path, Patna.
6. The Chief Engineer, Bihar State Tourism Development Corporation Ltd., Patna.
7. The Executive Engineer, Bihar State Tourism Development Corporation Ltd., Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar, Advocate  
For the Respondent/s : Mr. Standing Counsel (4)

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 26-02-2024**

The petitioner is aggrieved with the fact that the petitioner's bid has not been accepted, despite Annexure- 4, having permitted such acceptances.

2. We have heard the learned Counsel for the petitioner and the learned Standing Counsel for the Bihar State Tourism Development Corporation Ltd.

3. The Bihar State Tourism Development



Corporation brought out Annexure-1, the Notice Inviting Tenders (for brevity, NIT), which invited tenders for four specified works, shown at serial nos. 1 to 4. The work at serial no. 1 was not bid for by any of the tenderers. Hence, the Corporation brought out another tender as produced at Annexure-2, for that work alone.

4. The petitioner applied under the said NIT and in the technical bid, all the other four bidders were disqualified. Only the petitioner's bid came up for financial bid. The petitioner seeks that his bid may be accepted. Reliance is also placed on Annexure-4.

5. The translated copy of Annexure-4 has been produced before us, which is extracted hereunder:

*"No. M-4-12/2015-7806/F.- In exercise of the powers conferred under Article 283(2) of the Constitution of India, the Governor of Bihar is pleased to make the following Rules to amend the Bihar Financial rules, 1950 Rule 131J sub rule(c) (as amended from time to time):-*

*1. Short title, extent and commencement.- (1) These may be called The Bihar Financial (Amendment) Rule, 2016.*

*(2) It shall extend to the whole of the State of Bihar.*

*(3) It shall come into force at once.*

*2. The words "if only one tender remains" provided in Rule 131J sub rule(c) of Bihar Financial Rules, 1950, vide*



*Finance Department Notification no. 1682/F dated 01.03.2016 shall be substituted by the words "If only one tender remains or no tender is received in the first bid." Accordingly the provisions will be as follows:-*

*"After evaluating the technical bids received by the purchaser department by the competent committee or authority, if only one tender remains or no tender is received in the first bid for evaluation of financial bid then re-tender shall be invited for it immediately. If after inviting re-tender also, only one tender remains for evaluation of financial bid after technical evaluation, then the matter will be disposed off by the authority of one level above of the competent authority"*

*By order of the Governor of Bihar,  
RAHUL SINGH,  
Secretary (Expenditure)."*

Obviously, if only one tender remains or if no tender is received in first bid, the evaluation of financial bid cannot go through and a fresh tender has to be issued. A single bid in the second NIT can be accepted, but by the authority above the competent authority.

6. In the present case, there was no bid in the first NIT and if the second NIT issued there was only one single bid, which qualified the technical evaluation; the petitioner's. It was definitely within the power of the authority above the level of the competent authority to accept the tender, though it is a single bid.



7. However, we cannot issue positive directions to accept the same. It is for the authority to consider whether such acceptance can be made or not.

8. The learned Standing Counsel also specifically points out Clause 17 of the NIT, which speaks of the authorities having the right to reject the bid partially or fully, without assigning any reason whatsoever.

9. Of course, the authority will have the power to reject any tender, but only with reasons shown. In such circumstances, we direct the competent authority to place the matter before the authority one level above the competent authority, so that the consideration can be made as to whether the single bid is to be accepted or not.

10. The writ petition stands disposed off, making it clear that if the decision of the authority negatives the claim then it shall be by a speaking order.

**(K. Vinod Chandran, CJ)**

**(Harish Kumar, J)**

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